

Naghti l-kunsens tieghi.

(L.S.)

GEORGE HYZLER  
Agent President

17 ta' Meju, 2002

**ATT Nru. VII ta' l-2002**

*ATT biex jipprovdi għall-Probation ta' Hatjin, Ordnijiet ta' Servizz  
fil-Komunità u Ordnijiet ta' Probation u Servizz*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati,  
imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi  
dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2002 dwar il-  
*Probation.* Titolu fil-qosor u  
bidu fis-sehh.

(2) Dawn id-disposizzjonijiet li ġejjin ta' dan l-Att  
għandhom jidhlu fis-sehh f'dik id-data li l-Ministru responsabbli għas-  
servizzi ta' *Probation* jista' b'avviż fil-Gazzetta jistabbilixxi u dati  
differenti jistgħu jiġu hekk stabbiliti għal dispozizzjonijiet differenti  
ta' dan l-Att.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg Tifisir.  
xort'ohra -

"dikjarata hatja ta' reat" tinkludi dikjarazzjonijiet ta' htija mill-  
Qorti ta' l-Appell Kriminali u l-konferma mill-imsemmija qorti  
ta' dikjarazzjoni ta' htija mill-qorti ta' l-ewwel grad jew ta' sejbien  
ta' htija mill-guri;

"Dipartiment" tfisser id-Dipartiment għal Servizzi ta'  
*Probation*;

"Direttur" tfisser id-Direttur tas-Servizzi ta' *Probation*;

“istituzzjoni” tfisser istituzzjoni approvata mill-Ministru;

“min ikun taht *probation*” tfisser min għal xi żmien ikun taht sentenza bis-sahha ta’ ordni ta’ *probation*, ordni ta’ servizz fil-komunita` jew ordni ta’ *probation* u servizz;

“Ministru” tfisser il-Ministru responsabbli għas-servizzi ta’ *probation*;

“ordni ta’ *probation*” għandha t-tifsira lilha mogħtija bl-artikolu 7 ta’ dan l-Att;

“ordni ta’ *probation* u servizz” għandha t-tifsira lilha mogħtija bl-artikolu 18 ta’ dan l-Att;

“ordni ta’ servizz fil-komunita`” għandha t-tifsir lilha mogħti bl-artikolu 11 ta’ dan l-Att;

“perjodu ta’ *probation*” tfisser il-perjodu li matulu min ikun taht *probation* jitqiegħed, taht sorveljanza b’ordni ta’ *probation*, taht ordni ta’ servizz fil-komunita` jew ordni ta’ *probation* u servizz;

“rapport ta’ qabel is-sentenza” tfisser rapport bil-miktub ippreparat mid-Dipartiment fuq talba tal-qorti qabel ma tingħata s-sentenza;

“sanzjoni komunitarja” tfisser ordni ta’ *probation*, ordni ta’ servizz fil-komunita` jew ordni ta’ *probation* u servizz kif speċifikati f’dan l-Att;

“uffiċjal għas-servizz fil-komunita`” huwa uffiċjal tal-*probation* li jissorvelja ordnijiet ta’ servizz fil-komunita`;

“uffiċjal tal-*probation*” tfisser min ikun maħtur bhala uffiċjal tal-*probation* taht dan l-Att.

Dmirijiet tad-Direttur tas-Servizzi ta’ *Probation*.

3. (1) Għandu jitwaqqaf Dipartiment tas-Servizzi ta’ *Probation* li jkun dipartiment tal-Gvern li jitmexxa minn uffiċjal pubbliku li jissejjah id-Direttur tas-Servizzi ta’ *Probation*.

(2) Ikun id-dmir tad-Direttur tas-Servizzi ta’ *Probation* li -

(a) jamministra u jmexxi d-Dipartiment u jorganizza u jissorvelja s-servizzi ta’ *probation*;

(b) jagħti direttivi lill-uffiċjali tal-*probation* fuq ix-xogħol tagħhom;

(c) jaghti direttivi dwar kif jinżammu *records* u jiġi mmanigġat il-hin;

(d) jissorvelja lill-uffiċjali tal-*probation* u perjodikament jirċievi rapporti bil-fomm jew bil-miktub dwar kull min ikun taht *probation* minghand l-uffiċjali tal-*probation*;

(e) jzomm registru ta' kull min ikun taht sentenza ta' sanzjoni komunitarja;

(f) jzomm registru ta' rapporti ta' qabel is-sentenza li jintalbu mill-qrati;

(g) jiddeċiedi jekk min ikun taht *probation* ghandux jiġi mixli fil-qorti minhabba f'xi ksur ta' xi kondizzjoni ta' sanzjoni komunitarja; u

(h) jassenja l-uffiċjali tal-*probation* lil min ikun taht *probation* u jipprepara rapport ta' qabel is-sentenza skond dan l-Att.

(3) Id-Direttur jista' jiddelega kull wiehed mid-dmirijiet hawn qabel imsemmija lil xi membru anzjan tal-persunal tiegħu.

4. Il-Ministru ghandu jahtar għadd suffiċjenti ta' persuni kwalifikati bħala uffiċjali tal-*probation*, li jwettqu taht id-direzzjoni generali tad-Direttur id-dmirijiet provduti b'dan l-Att jew dawk id-dmirijiet l-oħra li jistgħu jiġu preskritti b'regolamenti magħmulin taht dan l-Att jew b'kull kull liġi oħra jew taħtha.

Hatra ta' uffiċjali tal-*probation*.

5. (1) Ghandu jitwaqqaf Bord ta' Sorveljanza magħmul minn President u żewġ membri oħra li jinhatru mill-Ministru.

Bord ta' Sorveljanza.

(2) Id-dmirijiet tal-Bord ikunu li jirrevedi t-twettiq tas-servizzi ta' *probation* taht dan l-Att u li jissuggerixxi kull titjib li jidher, u li jissorvelja *z-zamma* ta' dixxiplina fis-sanzjonijiet komunitarji.

(3) Il-Bord ghandu jagħmel rapport ta' kull sena lill-Ministeru responsabbli għas-servizzi ta' *probation* dwar il-funzjonament tas-servizzi ta' *probation* mid-Dipartiment. Il-Ministru ghandu jibghat kopja ta' dan ir-rapport lill-Kumitat Permanenti dwar l-Affarijiet Soċjali tal-Kamra tad-Deputati.

(4) Il-membri tal-Bord għandhom jibqgħu fil-kariga għal dak il-perjodu li l-Ministru jista' jistabbilixxi fil-hatra tagħhom, u jergħu jkunu eligibbli għall-hatra wara tmiem iż-żmien tal-kariga tagħhom.

(5) Il-Bord ghandu jkollu aċċess ghar-records kollha tad-Dipartiment u bla hsara ghal kull ordni li tinghata mill-Ministru, ghandu jirregola l-proċeduri tieghu nnifsu.

Rapporti ta' qabel is-sentenza.

6. (1) Il-qorti tista' tqabba lid-Dipartiment jipprepara rapport ta' qabel is-sentenza, qabel ma thaddan xi fehma dwar kemm ikun adatt li xi hati jinghata sentenza ta' prigunerija, sentenza sospiza jew xi miżura oħra permessa mill-liġi fuq wiehed jew iktar minn dawn l-ordnijiet li ġejjin:

(a) ordni ta' *probation*; jew

(b) ordni ta' sorveljanza b'sentenza sospiza:

Izda, hliet fil-każ ta' proċeduri sommarji ghal reati li jaqghu taht il-ġurisdizzjoni tal-Qorti tal-Maġistrati bhala qorti ta' ġudikatura kriminali taht is-subartikolu (1) ta' l-artikolu 370 tal-Kodiċi Kriminali, il-Qorti ghandha dejjem tqabba li jsir rapport ta' qabel is-sentenza qabel ma tittratta ma' xi hati taht it-18-il sena li jkun għamel reat punibbli bi prigunerija jew qabel ma tohrog xi ordni ta' servizz fil-komunità jew ordni ta' *probation* u servizz.

(2) Ikun id-dmir ta' uffiċjal tal-*probation*, li jkun gie assenjat biex jipprepara r-rapport ta' qabel is-sentenza li jistharreg, skond kull direttiva li jinghata mill-qorti, ċ-ċirkostanzi personali u soċjali tal-hati bil-ghan li jghin lill-qorti tistabbilixxi l-iktar metodu adatt kif timxi fil-każ.

(3) Meta persuna tkun inghata dikjarazzjoni ta' htija ta' reat u l-qorti jkollha l-fehma li ghandu jinkiseb tagħrif fuq iċ-ċirkostanzi jew l-ambjent fid-dar ta' l-akkuzat qabel ma tiddeciedi kif tittratta mal-hati, il-qorti ghandha, minkejja dak kollu li hemm fil-Kodiċi Kriminali, tiddiferixxi l-kawża sabiex ikun jista' jsir ir-rapport ta' qabel is-sentenza mid-Dipartiment.

(4) Id-disposizzjonijiet tas-subartikoli ta' qabel għandhom japplikaw, *mutatis mutandis*, għal proċeduri quddiem il-Qorti Kriminali jew il-Qorti ta' l-Appell Kriminali.

(5) Meta jsir rapport ta' qabel is-sentenza lil xi qorti, ghandha tinghata kopja tar-rapport mill-qorti lill-hati jew lill-avukat jew lill-prokuratur legali tieghu u lill-prosekuzzjoni:

Izda jekk il-hati jollu anqas minn sittax-il sena u ma jkunx rappreżentat minn avukat jew prokuratur legali, ma jkunx meħtieġ li kopja tar-rapport tinghata lilu imma ghandha tinghata lill-ġenitur jew lit-tutor tieghu.

(6) Hlief sa fejn jiġi citat fis-sentenza, rapport ta' qabel is-sentenza jiġi kkunsidrat bħala dokument konfidenzjali. Ebdha tagħrif li dan ikun fih ma jista' jiġi kkommunikat fi kwalunkwe għamla lil terzi mingħajr il-kunsens ta' l-akkuzat jew tal-qorti. L-uffiċjal tal-*probation* għandu jkollu d-dritt ta' access għall-proċess relatat mal-proċeduri kriminali u d-dokumenti li hemm fih, f'hinijiet raġjonevoli.

7. (1) Il-qorti tista', bla hsara għad-disposizzjonijiet tas-subartikolu li ġej, minflok tagħti sentenza dwar il-hati, tagħmel ordni ta' *probation*, jiġifieri, ordni li tkun tehtieg lill-hati li jitqieghed taht is-sorveljanza ta' uffiċjal tal-*probation* għal perjodu li jiġi speċifikat fl-ordni ta' mhux inqas minn sena u mhux aktar minn tliet snin.

Ordni ta' *probation*.

(2) Kull ordni magħmula skond is-subartikolu (1) ta' dan l-artikolu għandha biss issir jekk:

(a) persuna tiġi dikjarata hatja ta' reat, li ma jkunx reat punibbli biss b'multa jew ammenda, u għax ma jkunx reat li appartni minn kull żjieda fil-piena minhabba f'li jkun wiehed li jkompli jew f'dikjarazzjonijiet ta' htija preċedenti, li jkun punibbli bi priġunerija għal żmien mhux iktar minn seba' snin; u

(b) il-qorti tkun sodisfatta li s-sorveljanza tal-hati minn uffiċjal tal-*probation* tkun mixtieqa fl-interess li tiġi assikurata r-rijabilitazzjoni tal-hati u, jew jiġi protett il-pubbliku minn xi dannu li jista' jagħmel il-hati jew li jiġi prevenut l-għemil ta' reati ohra; u

(c) fiċ-ċirkostanzi tal-każ, inkluża x-xorta tar-reat u l-karattru tal-hati, il-hruġ ta' dik l-ordni jkun adatt:

Izda meta fil-fehma tal-qorti jkunu jeżistu ċirkostanzi, li għandhom jiġu dikjarati b'mod ċar fl-ordni, li jkunu jimmeritaw li l-hati jitqieghed taht ordni ta' *probation* fil-każ ta' reat li, minbarra xi żjieda fil-piena minhabba fit-tkomplija tar-reat jew xi dikjarazzjoni ta' htija preċedenti, jkun punibbli bi priġunerija għal żmien li jeċċedi seba' snin iżda mhux għaxar snin, il-qorti tista' tagħmel ordni ta' *probation*:

B'dana però li meta l-Qorti hekk jidhrilha li għandu jsir fl-ahjar interess ta' persuna li hija akkuzata quddiemha, hija tista', anke pendentni l-proċeduri kriminali, tagħti ordni provisorju sabiex l-akkuzat jitqieghed taht ordni ta' superviżjoni ta' uffiċjal ta' *probation* taht dawk il-kondizzjonijiet li l-Qorti jidhrilha xierqa.

(3) Minghajr preġudizzju għad-disposizzjonijiet tas-subartikoli li ġejjin ta' dan l-artikolu, ordni ta' *probation* tista' iktar minn hekk tkun tehtieg lill-hati li jikkonforma matul iż-żmien, kollu jew f'parti minnu, ta' *probation* ma' dawk il-htigiet li l-qorti, wara li tqis ie-ċirkostanzi tal-każ, jidhrilha mehtieġa biex tassikura l-imġieba tajba tal-hati jew biex tiġi prevenuta ripetizzjoni mill-hati ta' l-istess reat jew l-ghemil ta' reati ohra, u l-qorti tista' wkoll taghti lill-uffiċjal tal-*probation* dawk id-direttivi li tista' tqis bhala mehtieġa biex tilhaq dawn l-ghanijiet.

(4) Ordni ta' *probation* tista' tinkludi htigiet li jkunu jirrigwardaw il-post ta' residenza tal-hati:

Iżda -

(a) qabel ma taghmel ordni li jkun fiha xi htieġa bhal dawk, il-qorti għandha tikkonsidra l-ambjent domestiku fejn jghix il-hati; u

(b) meta l-ordni jkun fiha xi htigiet bhal dawk, il-post fejn ikollu joqghod fih min ikun taht *probation* għandu jkun speċifikat fl-ordni. Jekk min ikun taht *probation* ikun mehtieġ li jirrisjedi f'xi istituzzjoni, il-perjodu li matulu l-hati jkun mehtieġ li jirrisjedi m'għandux itul iktar minn tna-x-il xahar mid-data ta' l-ordni.

(5) Minghajr preġudizzju għall-generalità tas-subartikolu (2) ta' dan l-artikolu meta fil-fehma tal-qorti il-kondizzjoni mentali tal-hati tkun tali li tehtieġ u li tista' tkun suxxettibbli għall-kura, imma ma tkunx tali li tiġġustifika li jittiehdu xi miżuri jew proceduri, jew meta l-qorti tkun sodisfatta li

(a) l-hati jkun moghti għad-droga; u

(b) li jkunu saru jew jistghu jsiru l-arrangamenti adatti għall-kura,

ordni ta' *probation* tista' tinkludi l-htieġa li l-hati għandu jaghmel dik il-kura li ma tkunx għal żmien itwal minn dak ta' l-ordni jew taht id-direttivi ta' xi persuna kwalifikata għaldaqshekk bil-ghan li titjeb il-kondizzjoni mentali tal-hati jew bil-ghan li l-hati jinheles mill-vizzju tad-droga.

Il-kura tista' tkun ta' xi wahda minn dawn ix-xorta li ġejjin:

(c) kura bhala pazjent mhux resident f'xi sptar jew aġenzija jew istituzzjoni ohra adatta;

(d) kura bhala residenti f'xi sptar jew agenzija jew istituzzjoni ohra adatta; jew

(e) kura minn jew taht id-direzzjoni ta' xi persuna kwalifikata kif imiss hekk kif jista' jigi speċifikat fl-ordni.

F'tali każ emenda ta' l-ordni taht l-artikolu 10 ta' dan l-Att tista' wkoll issir fuq rikors li jsir minn persuna kwalifikata kif imiss, flimkien ma' l-uffiċjal tal-*probation*, responsabbli għall-kura tal-hati.

(6) Meta l-qorti tkun tqis li dik l-ordni tista' tghin fir-rijabilitazzjoni tal-hati, hija tista' bhala kondizzjoni fl-ordni tal-*probation* tinkludi ordni li għal dak il-perjodu li ma jkunx jeċċedi sitt għinghat min ikun taht *probation* għandu, meta ma jkunx mehtieg li jkun barra jahdem jew jistudja, jipprezenta lilu nnifsu u jibqa' f'dawk l-istituzzjonijiet residenzjali hekk kif jistghu jigu approvati mill-Ministru għal dak l-għan, b'dan li dik il-htiega tista' tkun ristretta mill-qorti għas-Sibtijiet u l-vakanzi pubbliċi, u għall-hin li jibda wara s-sebgha ta' filghaxija lejliet xi Sib t u btala pubblika.

(7) Qabel ma tagħmel l-ordni ta' *probation*, il-qorti għandha tffisser lill-hati, bi kliem li huwa jifhem, x'ikun l-effett ta' l-ordni inkluza kull htiega addizzjonali li tkun qed tiġi proposta li tiddahhal fl-ordni taht is-subartikolu (3), subartikolu (4), subartikolu (5) jew subartikolu (6) ta' dan l-artikolu, u li jekk il-hati jonqos milli jikkonforma ruhu magħha jew jagħmel xi reat iehor, il-hati jista' jinghata sentenza għar-reat oriġinali. Jekk il-hati ma jkollux inqas minn erbatax-il sena, il-qorti m'għandhiex tagħmel l-ordni kemm-il darba l-hati ma jesprimix ir-rieda tiegħu li jikkonforma mal-htiegiet ta' dik l-ordni.

(8) Il-qorti li tagħmel l-ordni ta' *probation* għandha minnufih tagħti kopji ta' l-ordni lil min ikun taht *probation*, lid-Direttur li jassenja uffiċjal tal-*probation* biex ikun responsabbli għas-sorveljanza ta' min ikun taht *probation*, u lil persuna li tkun inkarigata minn xi istituzzjoni jew sptar jew post iehor fejn min ikun taht *probation* ikun mehtieg mill-ordni li joqghod. Jekk min ikun taht *probation* ikun minorenni, kopja ta' l-ordni ta' *probation* għandha wkoll tinghata lill-ġenitur jew lill-persuna fdata bit-trobbija ta' min ikun taht *probation*, jekk ikun hemm.

Dmirijiet tal-uffiċjal tal-*probation*.

8. (1) Bla hsara għad-direttivi tal-qorti li tagħmel l-ordni ta' *probation*, ikun id-dmir ta' uffiċjal tal-*probation* li -

(a) jagħti parir u jghin lil min ikun taht *probation*;

(b) jżur u jirċievi rapporti minghand min ikun taht *probation* u professjonisti oħra li jkollhom x'jaqasmu fil-każ, f'dawk l-intervalli ta' żmien raġonevoli li jistghu jiġu speċifikati fl-ordni ta' *probation*, jew, li jkunu soġġetti għal dik l-ordni, hekk kif id-Direttur jista' jqis li jkun xieraq;

(ċ) jippjana, jissorvelja u jghin lil min ikun taht *probation* biex iwettaq il-kondizzjonijiet ta' l-ordni ta' *probation*;

(d) jiżgura li l-hati jikkonforma ruhu ma' kull sanzjoni komunitarja;

(e) jġieghel lil min ikun taht *probation* jifhem sew id-dannu li jkun ikkaguna lill-vittma tad-delitt u lis-soċjetà;

(f) jirrapporta lill-qorti bil-fomm jew bil-miktub, mill-inqas darba kull sitt xhur dwar kull progress tal-*probation*;

(g) meta jkun mehtieg, jghin lil min ikun taht *probation* f'illi jġib 'il quddiem kull sforz soċjali u edukattiv;

(h) meta jkun mehtieg, jghin lill-hati jsib impieg tajjeb għalih;

(i) jżomm *records* dettaljati dwar kull min ikun taht is-sorveljanza tiegħu u jkun inghata sentenza ta' sanzjoni komunitarja;

(j) jipprovdi rapporti bil-fomm jew bil-miktub dwar il-progress magħmul minn kull min ikun taht *probation* lid-Direttur;  
u

(k) jaġixxi skond l-istruzzjonijiet tad-Direttur meta min ikun taht *probation* jkun se jiġi mixli fil-qorti wara xi ksur tal-kondizzjonijiet ta' xi sanzjoni komunitarja.

(2) Ikun ukoll id-dmir ta' uffiċjal tal-*probation* li jistharreg, skond kull direttiva tal-qorti, x'ikunu ċ-ċirkostanzi jew l-ambjent domestiku ta' min ikun taht *probation* bil-għan li jghin lill-qorti tistabbilixxi l-iktar metodu adatt kif tittratta l-każ.

Għażla ta' uffiċjali tal-*probation*.

9. (1) Id-Direttur għandu wara li jikkonsulta lill-qorti jassenja uffiċjal tal-*probation* biex ikun responsabbli għas-sorveljanza ta' min ikun taht *probation*:

Izda iktar minn uffiċjal tal-*probation* wiehed jista' jiġi assenjat lil min ikun taht *probation* b' mod li kull uffiċjal għal dik il-persuna waħda jkun jittratta xi aspeċt partikolari tal-każ hekk kif jistabbilixxi d-Direttur.

(2) Il-Direttur, meta ċ-ċirkostanzi jkunu jippermettu, għandu jahtar uffiċjal tal-*probation* li jkollu esperjenza dwar kif jittratta matfal jew żgħażaġh biex jissorveljaw lill-hati li jkun taht l-età ta' sittax-il sena.

10. (1) Il-qorti li tkun għamlet l-ordni ta' *probation* tista', fuq rikors li jsir mid-Direttur jew minn min ikun taht *probation*, thassar l-ordni.

Liberazzjoni u emenda ta' ordni ta' *probation*.

(2) Il-qorti li tkun għamlet l-ordni ta' *probation* tista', fuq rikors li jsir wara rapport mill-uffiċjal tal-*probation* jew fuq rikors magħmul mid-Direttur jew minn min ikun taht *probation*, b'ordni jemenda ordni ta' *probation* billi jhassar xi jew kull hteġa li jkun hemm fl-ordni jew billi jdahhal f'dik l-ordni, jew b'żjieda jew biex tiġi sostitwita kull tali hteġa, kull hteġa li tista' tiġi inkluża fl-ordni li kieku din kienet qed tintgħamel minn dik il-qorti skond id-disposizzjonijiet ta' l-artikolu 7 ta' dan l-Att:

Izda -

(a) il-qorti m'għandhiex temenda ordni ta' *probation* billi tnaqqas il-perjodu ta' *probation* għal inqas minn sena jew billi ttawwal dak il-perjodu 'l hinn minn tmiem tliet snin mid-data ta' l-ordni originali;

(b) meta l-qorti tipproponi li temenda ordni ta' *probation*, xort'ohra milli fuq rikors ta' min ikun taht *probation*, hija għandha tharrek lil min ikun taht *probation* biex jidher quddiem il-qorti, u jekk min ikun taht *probation* ikollu mhux inqas minn erbatax-il sena età, il-qorti m'għandhiex temenda l-ordni ta' *probation* sakemm min ikun taht *probation* jesprimi r-rieda tiegħu li jikkonforma ma' kull hteġa ta' l-ordni kif emendata.

(3) Meta jsir ordni li jhassar jew jemenda ordni ta' *probation*, id-disposizzjonijiet tas-subartikoli (7) u (8) ta' l-artikolu 7 għandhom *mutatis mutandis* japplikaw.

(4) Meta, taht id-disposizzjonijiet li ġejjin ta' dan l-Att, min ikun taht *probation* jingħata sentenza għal reat li dwaru jkun tqiegħed taht *probation*, l-ordni ta' *probation* għandha ttemm milli tibqa' jkollha sehh. Il-qorti għandha tordna li kopja tas-sentenza tintbagħat mingħajr ebda dewmien lid-Direttur.

Ordni ta' servizz fil-komunità.

II. (1) Ordni ta' servizz fil-komunità tista' tinghata lil hati li jkollu sittax-il sena u fuqhom, li jkun gie dikjarat hati ta' reat li d'waru, fil-fehma tal-qorti, s-sentenza adatta ghandha, hliel ghall-provvedimenti ta' dan l-artikolu, tkun wahda ta' prigunerija. Dak ir-reat m'ghandux ikun punibbli biss b'xi multa jew ammenda u ma jistax ikun reat, li minbarra minn kull zjieda fil-kastig minhabba fit-tkomplija jew f'xi dikjarazzjonijiet preċedenti ta' htija, ikun punibbli bi prigunerija ghal zmien iżjed minn seba' snin u d-disposizzjonijiet tal-proviso li hemm mas-subartikolu (2) ta' l-artikolu 7 ghandhom japplikaw *mutatis mutandis* ghal dan is-subartikolu.

(2) Il-qorti tista', minflok taghti sentenza ta' prigunerija lill-hati, tordna lill-hati li jitqiegħed taht ordni ta' servizz fil-komunità. Ordni ta' servizz fil-komunità tkun tehtieg lill-hati li jagħmel xogħol bla hlas ghal għadd ta' siegħat kif speċifikat fl-ordni. F'kull każ bhal dak ebda ordni m'ghandha tehtieg lill-hati li jagħmel inqas minn 40 siegħa xogħol jew aktar minn 240 siegħa.

(3) Il-qorti m'ghandhiex tagħmel ordni ta' servizz fil-komunità kemm-il darba dawn il-kondizzjonijiet li ġejjin ma jkunux gew imharsa:

(a) il-qorti tkun sodisfatta, wara li tikkonsidra ċ-ċirkostanzi tal-hati u r-rapport ta' qabel is-sentenza, li l-hati jkun adatt li jagħmel xogħol taht dik l-ordni;

(b) li jistgħu jsiru arrangamenti għal dak ix-xogħol;

(ċ) il-hati jkun qabel ma' l-ordni; u

(d) il-hati jkun iffirma l-formola ta' ftehim ta' xogħol ta' servizz fil-komunità.

(4) Qabel ma tagħmel ordni ta' servizz fil-komunità għar-rigward ta' xi hati, l-qorti għandha tispjega lill-hati bi kliem li jiftiehem sew l-effett ta' l-ordni u li jekk il-hati jonqos li jikkonforma ruħu magħha jew jagħmel xi reat ieħor, il-hati jkun jista' jinghata sentenza għar-reat oriġinali.

(5) Il-qorti li tagħmel l-ordni ta' servizz fil-komunità għandha minnufih taghti kopji ta' l-ordni lill-hati, lid-Direttur, lill-uffiċjal tas-servizz fil-komunità assenjat għall-każ mid-Direttur, u lill-aġenziji u l-awtoritajiet responsabbli għas-sorveljanza ta' l-ordni ta' servizz fil-komunità.

(6) Ikun id-dmir tad-Direttur li jassenja xogħol lil-min ikun taht *probation* skond l-ordni ta' servizz fil-komunità.

12. (1) Meta qorti taghmel ordnijiet ta' servizz fil-komunità ghar-rigward ta' xi żewġ reati jew iktar li taghhom persuna tkun ġiet dikjarata hatja mill-qorti, il-qorti tista' tordna li s-sieghat ta' xoghol speċifikati f'xi wieħed minn dawk l-ordnijiet ghandhom ikunu jaqblu fiż-żmien ma', jew ikunu addizzjonali ghal dawk speċifikati f'xi ordni ohra minn dawk.

Regolament ta' sieghat ta' xoghol.

(2) Meta qorti taghmel ordni ta' servizz fil-komunità u jkun hemm fis-sehh dwar il-hati filwaqt ta' l-ghemil ta' dik l-ordni xi ordni ohra bhal dik (maghmula mill-istess qorti jew minn qorti differenti) il-qorti li taghmel l-ahhar ordni tista' tordna f'dik l-ordni li s-sieghat ta' xoghol hemm speċifikati ghandhom ikunu jaqblu fiż-żmien ma', jew ikunu addizzjonali ghal dawk speċifikati fl-ewwel ordni.

(3) Meta qorti taghmel ordni ta' servizz fil-komunità u jkun hemm fis-sehh sentenza ta' prigunerija jew il-hati jkun f'detenzjoni minghajr garanzija, l-ordni ta' servizz fil-komunità ghandha tidhol fis-sehh wara li l-hati jintbaghat mill-habs, sakemm l-uffiċjal ghas-servizz fil-komunità li jkun qed jiehu hsieb il-każ ikun tal-fehma li l-hati jkun ghadu f'qagħda li jista' jwettaq xoghol ta' servizz fil-komunità. Jekk il-hati jibqa' ma jkunx tajjeb biex iwettaq is-servizz fil-komunità li jkun mehtieg minnu, l-uffiċjal ghas-servizz fil-komunità ghandu jibghat lura l-każ lill-qorti. F'dawk il-każijiet il-qorti ghandha tittratta l-hati bhallikieku l-ordni ta' servizz fil-komunità qatt ma saret.

13. Hati li fir-rigward tiegħu ikun hemm ordni ta' servizz fil-komunità fis-sehh ghandu:

Dmirijiet tal-hati taht ordni ta' servizz fil-komunità.

(a) jirrapporta lill-awtorità rilevanti minn żmien għal żmien skond l-istruzzjonijiet mahruġa mill-uffiċjal ghas-servizz fil-komunità;

(b) iwettaq b'mod sodisfaċenti għall-ghadd ta' sieghat speċifikat fl-ordni dak ix-xoghol f'dawk il-hinijiet skond ma jista' jiġi ordnat minn jew f'isem l-awtorità rilevanti;

(c) javża lill-uffiċjal ghas-servizz fil-komunità li l-hati jkun mehtieg li jirrapporta lilu taht dan is-subartikolu b'kull tibdil fl-indirizz tiegħu.

14. (1) Bla hsara għad-disposizzjonijiet ta' l-artikolu 10, x-xoghol li ghandu jsir taht ordni ta' servizz fil-komunità ghandu jitwettaq matul il-perjodu ta' mhux inqas minn tliet xhur u mhux aktar minn sena li jibda għaddej fid-data ta' l-ordni imma, sakemm din ma tiġix revokata, l-ordni ghandha tibqa' ssehh sakemm il-hati jkun hadem taht dik l-ordni għall-ghadd ta' sieghat fiha speċifikat.

Xoghol ta' servizz fil-komunità

(2) Ordnijiet moghtija taht is-subartikolu (1) ta' dan l-artikolu m'ghandhomx, daqskemm dan ikun prattiku, jinterferixxu malhinijiet li matulhom il-hati jkun normalment jahdem jew jattendi l-iskola jew xi stabbiliment edukattiv jew ta' tahrig iehor.

(3) Dak il-hati li jonqos milli jhares xi hteiga li tinsab fl-artikolu 13, ikun-hati ta' reat u, minghajr preġudizzju ghat-tkomplija fis-sehh ta' l-ordni ta' servizz fil-komunita, jista' jehel meta jinghata dikjarazzjoni ta' htija sommarja amenda ta' mhux iżjed minn Lm 100.

Ksur ta' ordni ta' servizz fil-komunita.

15. Meta l-hati jigi dikjarat hati ta' reat taht is-subartikolu (3) ta' l-artikolu 14 ta' dan l-Att, il-qorti li tkun harġet dik l-ordni, minflok ma twahhal multa taht dak l-artikolu tista', jew tirrevoka l-ordni jew tirrevokaha u tittrata l-hati ghar-reat li dwaru kienet saret l-ordni b'kull tali mod li bih il-hati seta' gie ttrattat ghal dak ir-reat li kicku l-ordni ma kienetx saret.

Estensjoni.

16. Meta jkun hemm fis-sehh ordni ta' servizz fil-komunita, fuq rikors tal-hati jew tad-Direttur, u jekk il-qorti jkun hekk jidhrilha li jkun fl-ahjar interess tal-gustizzja, fil-qies taç-çirkostanzi tal-każ, il-qorti tista' testendi l-perjodu ta' sena ghal sitt xhur, sabiex jitwettaq dak is-servizz fil-komunita.

Tahrik tal-hati.

17. Fil-kazijiet kontemplati taht l-artikoli 15 jew 16 ta' dan l-Att il-qorti ghandha tharrek lill-hati biex jidher quddiemha u, jekk il-hati jonqos milli jidher skond dik it-tahrika il-qorti tista' tordna li l-hati jingieb quddiemha taht arrest.

Ordni ta' probation u servizz

18. Il-qorti tista', minflok ma taghti sentenza ta' prigunerija lill-hati, tordna lill-hati li jitqiegħed taht ordni ta' probation u servizz. Ordni ta' probation u servizz tkun tehtieg lill-hati li jitqiegħed taht is-sorveljanza ta' probation kif speçifikat fl-artikolu 7 ta' dan l-Att u li jaqdi ordni ta' servizz fil-komunita, kif speçifikat fl-artikolu 11 ta' dan l-Att. Madankollu, dik l-ordni m'ghandhiex tehtieg lill-hati li jwettaq inqas minn 40 siegha xogħol jew iktar minn 100 siegha b'zjieda ma' kull ghadd ta' sieghat ta' xogħol li jkunu ghad iridu jinhadmu taht xi ordni ta' servizz fil-komunita preçedenti.

Dmirijiet tal-hati taht ordni ta' probation u servizz.

19. Dak il-hati li dwaru jkun hemm fis-sehh ordni ta' probation u servizz ghandu:-

(a) jirrapporta lill-ufficjal tal-probation lilu assenjat mid-Direttur minn żmien għal żmien skond l-istruzzjonijiet mahruġa mill-ufficjal tal-probation;

(b) jirrapporta lill-awtorita rilevanti minn żmien għal żmien skond l-istruzzjonijiet mahruġa mill-ufficjal għas-servizz fil-komunita;

(c) jwettaq b' mod sodisfacenti għall-ghadd ta' siegħat speċifikati fl-ordni dak ix-xogħol f' dawk il-hinijiet skond ma jiġi ordnat minn jew f' isem l-awtorità rilevanti;

(d) javża lill-uffiċjal għas-servizz fil-komunità li l-hati jkun meħtieġ li jirrapporta lilu taht dan is-subartikolu b'kull bdil fl-indirizz tiegħu.

**20.** Il-provvedimenti ta' dan l-att li japplikaw għall-ordnijiet ta' *probation* u l-ordni ta' servizz fil-komunità għandhom japplikaw għal ordnijiet ta' *probation* u servizz. Regoli li japplikaw.

**21.** (1) Jekk f' xi waqt matul il-perjodu ta' *probation* il-qorti li tkun għamlet l-ordni tkun tal-fehma li min ikun taht *probation* ikun naqas li jhares xi wahda mill-htigiet ta' l-ordni, il-qorti tista' tohroġ tahrিকা li fiha titlob lil min ikun taht *probation* biex jidher quddiem dik il-qorti fil-post u l-hin hemm speċifikati, jew tista', jekk iċ-ċirkostanzi jkunu hekk jeħtieġu, tohroġ mandat għall-arrest ta' min ikun taht *probation*: Ksur ta' kondizzjonijiet.

Iżda hliet meta n-nuqqas allegat jingiebb għall-attenzjoni tal-qorti f' rapport mill-uffiċjal tal-*probation*, m'għandhom jinharġu ebda tali tahrিকা jew mandat -

(a) mill-qorti Kriminali, jew mill-Qorti ta' l-Appell Kriminali hliet meta tinghata informazzjoni bil-miktub li tiġi ppreżentata mill-Avukat Ġenerali;

(b) mill-Qorti tal-Maġistrati (Malta), l-Qorti tal-Maġistrati (Għawdex) jew il-Qorti tal-Minorenni, hliet meta tinghata informazzjoni bil-miktub u li tkun konfermata b'għurament.

F'kull każ l-informazzjoni għandha tiġi ppreżentata fi żmien tliet xhur minn nuqqas allegat minn min ikun taht *probation*.

(2) Jekk jiġi ppruvat għas-sodisfazzjon tal-qorti, li min ikun taht *probation* jkun naqas milli jhares xi htieġa ta' ordni ta' sanzjoni fil-komunità, dik il-qorti tista', mingħajr preġudizzju għat-tkomplija tas-sanzjoni, twahhal il-hati ammenda ta' mhux iżjed minn mitt lira, jew tista' tittratta ma' min ikun taht *probation*, għar-reat li dwaru tkun saret is-sanzjoni komunitarja, b'kull mod kif il-qorti tista' tittratta lill-hati li kieku kien għadu kemm ġie dikjarat hati minn jew quddiem dik il-qorti għal dak ir-reat.

(3) Ammenda li tiġi imposta taht dan l-artikolu dwar xi nuqqas ta' harsien ma' kull htieġa ta' ordni ta' *probation* għandha titqies għall-finijiet ta' kull liġi, imma salv id-disposizzjonijiet tas-subartikolu

(1) ta' l-artikolu 22 ta' dan l-Att, bhala somma aġġudikata li tithallas wara dikjarazzjoni ta' htija.

Liberazzjoni  
assoluta jew  
kondizzjonata.

22. (1) Meta qorti li fiha persuna tiġi dikjarata hatja ta' reat (li ma jkunx reat punibbli biss b' multa jew ammenda) u li ma jkunx reat li minbarra żjieda fil-piena minhabba fit-tkomplija jew dikjarazzjonijiet preċedenti ta' htija, ikun punibbli bi prigunerija ghal żmien iktar minn seba' snin) jkollha l-fehma li, fil-qies taċ-ċirkostanzi tal-każ, inkluża x-xorta tar-reat u l-karattru tal-hati, ma jkunx spedjenti li twahhal piena u dik l-ordni ta' *probation*, ordni ta' servizz fil-komunità jew ordni ta' *probation* u servizz ma jkunx adatti, l-qorti tista' taghmel ordni li biha tillibera lill-hati ghalkollox, jew, jekk il-qorti tkun hekk tahsibha, billi tillibera lill-hati bla hsara ghall-kondizzjoni li ma jaghmel ebda reat matul dak il-perjodu, li ma jkunx iżjed minn tliet snin mid-data ta' l-ordni, skond ma jiġi speċifikat fl-istess ordni. Id-disposizzjonijiet tal-proviso li hemm mas-subartikolu (2) ta' l-artikolu 7 ghandhom *mutatis mutandis* japplikaw ghal dan is-subartikolu.

(2) Ordni li tkun tillibera lil persuna bla hsara ghal tali kondizzjoni kif hawn qabel mgharrfa hija f'dan l-Att imsemmija bhala "ordni ghal liberazzjoni kondizzjonata" u l-perjodu speċifikat f'tali ordni bhala "il-perjodu ta' liberazzjoni kondizzjonata".

(3) Qabel ma taghmel ordni ghal liberazzjoni kondizzjonata, il-qorti ghandha tfisser lill-hati bi kliem li jiftiehem sew li jekk il-hati jaghmel xi reat iehor matul il-perjodu ta' liberazzjoni kondizzjonata, il-hati jkun jista' jinghata sentenza ghar-reat originali.

(4) Meta, taht id-disposizzjonijiet ta' dan l-Att, persuna kondizzjonalment liberata tinghata sentenza ghar-reat li dwaru tkun saret l-ordni ghal liberazzjoni kondizzjonata, dik l-ordni ghandha ttemm milli jkollha sehh.

Dikjarazzjoni ta'  
htija wara ordni.

23. (1) Jekk persuna li fil-każ taghha jkunu saru xi sanzjoni komunitarja jew ordni ghal liberazzjoni kondizzjonata, sussegwentement tinhareg fir-rigward taghha dikjarazzjoni ta' htija minn jew quddiem xi qorti dwar reat li jkun sar matul il-perjodu ta' *probation* jew matul il-perjodu ta' liberazzjoni kondizzjonata, il-qorti -

(a) jekk tkun l-istess qorti li tkun ghamlet l-ordni ta' *probation*, l-ordni ta' servizz fil-komunità, l-ordni ta' *probation* u servizz jew l-ordni ghal liberazzjoni kondizzjonata, tista' tittratta lil dik il-persuna ghar-reat li dwaru tkun saret dik l-ordni b'kull mod li tista' tittratta lill-hati li kieku kien ghadu kemm gie dikjarat hati minn jew quddiem dik il-qorti ghal dak ir-reat;

(b) jekk tkun qorti differenti, ghandha tibghat lil dik il-persuna quddiem il-qorti li tkun ghamlet l-ordni ta' *probation*, l-ordni ta' servizz fil-komunità, l-ordni ta' *probation* u servizz jew l-ordni ghal liberazzjoni kondizzjonata u dik il-qorti ghandha kemm jista' jkun malajr, tara li dik il-persuna tingieb quddiemha, u meta tingieb prova ghas-sodisfazzjon taghha tad-dikjarazzjoni ta' htija dwar ir-reat ulterjuri, tista' tittratta lil dik il-persuna ghar-reat li dwaru tkun saret l-ordni b'kull mod li setghet tittratta lill-hati li kieku kien ghadu kemm gie dikjarat hati minnha jew quddiemha ta' dak ir-reat.

(2) Bla hsara ghad-disposizzjoni tas-subartikolu (3), meta persuna tigi trattata ghar-reat li dwaru tkun tqeghdet taht *probation* b'ordni ta' servizz fil-komunità, jew b'ordni ta' *probation* u servizz jew tkun giet kondizzjonalment liberata, jew il-qorti ma tkunx tista' tqiegheed lill-hati taht sanzjoni komunitarja jew taghmel ordni kif provdut fis-subartikolu (1) ta' l-artikolu 22 ta' dan l-Att.

(3) Subartikolu (2) m'ghandux japplika meta r-reat maghmul matul il-perjodu ta' *probation* jew matul il-perjodu ta' liberazzjoni kondizzjonata u li dwaru l-persuna sussegwentement tigi dikjarata hatja, jkun kontravvenzjoni jew ikun delitt ta' omicidju involuntarju, jew offiza involontarja fuq il-persuna, jew hsara involontarja fuq il-proprjeta'.

(4) Ghall-fini tas-subartikolu (1) -

(a) il-Qorti tal-Magistrati (Malta), il-Qorti tal-Magistrati (Ghawdex) u l-Qorti tal-Minorenni ghandhom jitqiesu bhala l-istess qorti;

(b) il-Qorti ta' l-Appell Kriminali meta tkun qeghda taqta' appelli minn sentenzi tal-Qorti tal-Magistrati (Malta), il-Qorti tal-Magistrati (Ghawdex) u l-Qorti tal-Minorenni ghandu jitqies li jkun qorti differenti mill-Qorti ta' l-Appell Kriminali fid-determinazzjoni ta' appelli ghal decizjonijiet tal-Qorti Kriminali

24. (1) Meta Qorti taghmel ordni ta' *probation*, ordni ta' servizz fil-komunità, ordni ta' *probation* u servizz, ordni ghal liberazzjoni kondizzjonata jew meta tillibera lil xi hati ghalkollox tista', minghajr pregudizzju ghall-poter li ghandha dwar l-ispejjez taht l-artikoli 380 u 533 tal-Kodiċi Kriminali, tordna lill-hati jhallas dawk id-danni ghal xi feriment jew b'kumpens ghal xi telfien hekk kif il-qorti jkun jidhrilha li jkun l-aktar ragonevoli. Hfas ta' danni.

(2) Ordni għall-hlas ta' danni jew kumpens kif hawn qabel imsemmi tista' tiġi infurzata bl-istess mod bhallikieku din kienet inghatat f'azzjoni ċivili bejn il-hati u l-persuna lil min id-danni jew il-kumpens jiġu ordnati li għandhom jithallsu:

Izda ebda naha f'dan l-artikolu m'għandha tidderoga mid-dritt ta' dik il-persuna li tkopri kull ammont ieħor li jifdal b'xi mezz ieħor minghand il-hati jew minghand xi persuna oħra li tista' tkun responsabbli għall-istess hlas.

Effetti ta' sanzjoni komunitarja u liberazzjoni.

25. (1) Bla hsara għal dak hawn iktar 'il quddiem provdut, dikjarazzjoni ta' htija dwar xi reat li dwaru ssir ordni taht dan l-Att li bih il-hati jitqieghed taht sanzjoni komunitarja jew li tkun tillibera lill-hati għalkollox jew kondizzjonalment għandha titqies bhala li ma tkunx dikjarazzjoni ta' htija għal ebda fini li jkun, minbarra -

(a) l-finijiet tal-proċeduri li fihom issir l-ordni u ta' kull proċedura sussegwenti li tista' tittiehed kontra l-hati taht id-disposizzjonijiet ta' qabel ta' dan l-Att, u

(b) fil-każ ta' uffiċjal pubbliku, l-finijiet jew kull proċedura dixxiplinari li tista' tittiehed kontra, jew kull punizzjoni dixxiplinari li tista' tiġi imposta fuq dak l-uffiċjal pubbliku b'konsegwenza ta' xi tali dikjarazzjoni ta' htija jew ta' xi wiehed mill-fatti li jikkostitwixxu r-reat:

Izda meta hati, li jkollu mhux inqas minn tmintax-il sena età fiż-żmien tad-dikjarazzjoni ta' htija ta' reat li dwaru jitqieghed taht sanzjoni komunitarja jew jiġi kondizzjonalment liberat kif hawn qabel imsemmi, sussegwentement jinghata sentenza għal dak ir-reat, id-disposizzjonijiet ta' dan is-subartikolu għandhom itemmu japplikaw għal dik id-dikjarazzjoni ta' htija.

(2) Minghajr preġudizzju għad-disposizzjonijiet ta' qabel ta' dan l-artikolu, id-dikjarazzjoni ta' htija ta' hati li jitqieghed taht *probation*, fuq ordni ta' servizz fil-komunità, fuq ordni ta' *probation* u servizz jew li jiġi liberat għalkollox jew kondizzjonalment kif hawn qabel imsemmi għandha f'kull każ tiġi mwarrba għall-finijiet ta' kull liġi li timponi jew tawtorizza xi interdizzjoni, skwalifika, disabilità jew xi piena oħra fuq persuni b'dikjarazzjoni ta' htija.

(3) Id-disposizzjonijiet tas-subartikolu (1) ta' l-artikolu 7, tas-subartikolu (2) ta' l-artikolu 11, ta' l-artikolu 18, u tas-subartikoli (1) u (2) ta' l-artikolu 23 ta' dan l-Att m'għandhom jolqtu -

(a) ebda dritt li dak il-hati jista' jkollu kif hawn qabel imsemmi li jappella mid-dikjarazzjoni ta' htija jew iserrah fuqha minkejja kull proċediment sussegwenti għall-istess fatt;

(b) li xi proprjetà tiġi vestita mill-ġdid jew ristawrata b'konsegwenza tad-dikjarazzjoni ta' htija ta' xi hati bhal dak;

(ċ) it-thaddim ta' l-artikolu 23 tal-Kodiċi Kriminali jew ta' kull disposizzjoni oħra ta' dak il-Kodiċi jew ta' kull liġi oħra li tolqot il-konfiska ta' xi proprjetà jew iż-żamma tagħha mir-registratur ta' xi qorti jew minn xi uffiċjal iehor awtorizzat bil-liġi li jaqbad jew iżomm xi proprjetà konnessa ma' proċedimenti kriminali;

(d) l-ghemil ta' xi ordni taht l-artikolu 377 tal-Kodiċi Kriminali jew taht id-disposizzjonijiet jew kull liġi oħra li tkun tehtieg jew tawtorizza l-ghemil ta' kull ordni għat-tnehhija ta' xi ngombru jew inkonvenjenza jew għat-twettiq tal-liġi mill-hati jew mill-Pulizija bi spejjeż tal-hati;

(e) ir-responsabbiltà ta' tali hati kif imsemmi qabel li jkun mehtieg mill-qorti li jagħmel tajjeb huwa nnifsu jew li jsib garanzija skond l-artikoli 249, 383 u 384 tal-Kodiċi Kriminali;

(f) l-ghemil ta' kull ordni mill-qorti dwar il-hlas ta' l-ispejjeż taht l-artikoli 380 u 533 tal-Kodiċi Kriminali;

(g) it-thaddim tas-subartikoli (3), (5) u (6) ta' l-artikolu 35 tal-Kodiċi Kriminali;

(h) id-dritt ta' kull parti interessata li ġġib meta jkun hekk adatt fi proċeduri kriminali jew ċivili, provi li juru li persuna tkun ġiet liberata għalkollox jew kondizzjonalment kif hawn qabel imsemmi jew li dwarha tkun saret sanzjoni komunitarja, li tkun parti fil-proċeduri jew li tingieb bħala xhud, tkun ġiet dikjarata hatja ta' reat, sakemm dik il-prova titqies mill-qorti li tkun rilevanti.

**26. (1)** Il-Ministru jista' jagħmel regolamenti li -

Regolamenti.

(a) jippreskrivu l-kwalifiki għall-hatra tal-uffiċjali tal-*probation*;

(b) jippreskrivu d-dmirijiet tad-Direttur;

(ċ) jippreskrivu kull dmir ta' l-uffiċjali tal-*probation* b'żjieda ma' dawk li hemm provdut dwarhom b'dan l-Att;

(d) jippreskrivu kull ghamla ta' *record* li ghandu jinzamm mill-ufficjali tal-*probation* taht dan l-Att;

(e) jipprovdu ghal regolamenti dwar it-twertiq ta' xoghol taht l-ordnijiet ta' servizz fil-komunita';

(f) jillimitaw l-ghadd ta' sieghat ta' xoghol li ghandhom jitwertqu taht dak l-ordni ta' kuljum;

(g) jipprovdu ghall-kalkolu ta' hin mahdum taht dawk l-ordnijiet;

(h) jirregolaw id-dixxiplina fi, u kull haga ohra li tirrigwarda l-istituzzjonijiet residenzjali approvati mill-Ministru ghall-finijiet tas-subartikolu (6) ta' l-artikolu 7 ta' l-Att; u

(i) generalment ghall-ahjar twettiq tal-finijiet u d-disposizzjonijiet ta' dan l-Att.

Regoli tal-qorti.  
Kap. 12.

27. Il-Bord imsemmi fl-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jista', skond id-disposizzjonijiet ta' dak l-artikolu, jagħmel Regoli tal-Qrati li jkunu jirregolaw kull affari li kien hemm jew proċediment li ttiehed taht dan l-Att u jippreskrivu l-formoli li ghandhom jintużaw ghal dawk l-affarijiet jew proċedimenti u d-drittijiet li ghandhom jithallsu dwarhom.

Disposizzjoni  
transitorja.  
Kap. 152.

28. (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu, l-Att dwar il-*Probation* ta' Hatjin, huwa b'dan imhassar.

(2) Id-disposizzjonijiet ta' l-Att dwar il-*Probation* ta' Hatjin, ghandhom ikomplu japplikaw ghal kull ordni jew liberazzjoni kondizzjonata mahruġa taht id-disposizzjonijiet ta' dak l-Att qabel id-dhul fis-sehh ta' dan l-artikolu.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 735 ta' l-14 ta' Mejju, 2002.

ANTON TABONE  
*Speaker*

RICHARD J. CAUCHI  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

GEORGE HYZLER  
Acting President

17th May, 2002

**ACT No. VII of 2002**

*AN ACT to provide for the Probation of Offenders, Community Service Orders and Combination Orders*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows :-

1. (1) The short title of this Act is the Probation Act, 2002.

Short title and commencement.

(2) The following provisions of this Act shall come into force on such date as the Minister responsible for probation services may by notice in the Gazette appoint and different dates may be so appointed for different provisions of this Act.

2. In this Act, unless the context otherwise requires -

Interpretation.

“combination order” has the meaning assigned to it by article 18 of this Act;

“community sanction” means a probation order, a community service order or a combination order as specified in this Act;

“community service officer” is a probation officer who supervises community service orders;

“community service order” has the meaning assigned to it by article 11 of this Act;

“convicted of an offence” includes convictions by the Court of Criminal Appeal and the affirmation by the said court of a conviction by the court of first instance or of a finding of guilt by a jury;

“Department” means the Department of Probation Services;

“Director” means the Director of Probation Services;

“institution” means an institution approved by the Minister;

“Minister” means the Minister responsible for the probation services;

“pre-sentencing report” means a written report prepared by the Department at the request of the court prior to the imposition of sentence;

“probation officer” means a person appointed to be a probation officer under this Act;

“probation order” has the meaning assigned to it by article 7 of this Act;

“probation period” means the period for which a probationer is placed, under supervision by a probation order, under a community service order or a combination order;

“probationer” means a person for the time being sentenced by virtue of a probation order, a community service order or a combination order.

Duties of Director of Probation Services.

3. (1) There shall be a Department of Probation Services which shall be a department of Government headed by a public officer to be styled Director of Probation Services.

(2) It shall be the duty of the Director of Probation Services -

(a) to manage and direct the Department and to organise and supervise the probation services;

(b) to direct probation officers on their work;

(c) to give direction on record keeping and time management;

(d) to supervise probation officers and periodically receive verbal or written reports on probationers from the probation officers;

(e) to keep a register of each person sentenced to a community sanction;

(f) to keep a register of pre-sentencing reports requested by courts;

(g) to decide whether a probationer is to be arraigned in Court following a breach of any condition of a community sanction; and

(h) to assign probation officers to probationers and to prepare pre-sentencing reports in accordance with this Act.

(3) The Director may delegate any of the above duties to a senior member of staff.

4. The Minister shall appoint a sufficient number of qualified persons to be probation officers, who shall, under the general direction of the Director, perform the duties provided by this Act or such other duties as may be prescribed by regulations made under this Act, or by or under any other law. Appointment of probation officers.

5. (1) There shall be a Supervisory Board consisting of a Chairman and two other members to be appointed by the Minister. Supervisory Board.

(2) The duties of the Board shall be to review the performance of the probation services under this Act and suggest improvements, and to monitor the administration of discipline in community sanctions.

(3) The Board shall submit a yearly report to the Ministry responsible for the probation services on the functioning of the probation services by the Department. The Minister shall send a copy of the report to the Standing Committee for Social Affairs of the House of Representatives.

(4) The members of the Board shall hold office for such period as the Minister may establish in their appointment, and shall be re-eligible for appointment after the end of their term of office.

(5) The Board shall have access to all records of the Department and subject to any direction by the Minister, shall regulate its own procedures.

6. (1) A court may commission the Department to prepare a pre-sentencing report before forming an opinion as to the suitability of applying to an offender a sentence of imprisonment, a suspended Pre-sentencing reports.

sentence or any other measure allowed by law on one or more of the following orders:

- (a) a probation order; or
- (b) a suspended sentence supervision order:

Provided that, except in the case of summary proceedings for offences under the jurisdiction of the Court of Magistrates as a court of criminal jurisdiction under subarticle (1) of article 370 of the Criminal Code, the Court shall always commission a pre-sentencing report before dealing with an offender under 18 years of age who has committed an offence punishable by imprisonment, or before ordering a community service order or a combination order.

(2) It shall be the duty of a probation officer assigned to prepare the pre-sentencing report to inquire, in accordance with any direction of the court, into the personal and social circumstances of the offender with a view to assisting the court in determining the most suitable method of dealing with the case.

(3) Where a person has been convicted of an offence and the court is of opinion that information ought to be obtained about the circumstances or home surroundings of the accused before the method of dealing with the offender is determined, the court shall, notwithstanding anything contained in the Criminal Code, adjourn the case to enable the compilation of the pre-sentencing report by the Department.

(4) The provisions of the foregoing subarticles shall apply *mutatis mutandis*, to proceedings before the Criminal Court or the Court of Criminal Appeal.

(5) Where a pre-sentencing report is made to any court, a copy of the report shall be given by the Court to the offender or his advocate or legal procurator and the prosecution:

Provided that if the offender is under sixteen years of age and is not represented by an advocate or legal procurator, a copy of the report need not be communicated to him but shall be referred to his parent or guardian.

(6) Except in so far as it is cited in the judgement, a pre-sentencing report shall be considered as a confidential document. No information contained therein may be communicated in any form to third parties without the consent of the accused or the court. The

probation officer shall have a right of access at reasonable times to the acts of the criminal proceedings, including documents contained therein.

7. (1) The court may, subject to the provisions of the following subarticle, instead of sentencing the offender, make a probation order, that is to say, an order requiring the offender to be under the supervision of a probation officer for a period to be specified in the order of not less than one year and not more than three years.

(2) Any order made in accordance with subarticle (1) of this article shall only be made if:

(a) the offender is convicted of an offence, not being an offence punishable only with a fine (*multa* or *ammenda*), and not being an offence which apart from any increase of punishment in view of continuity or of previous convictions, which is punishable with imprisonment for a term not exceeding seven years; and

(b) the court is satisfied that the supervision of the offender by a probation officer is desirable in the interest of securing the rehabilitation of the offender and, or protecting the public from harm from the offender or preventing the commission of further offences; and

(c) having regard to the circumstances of the case, including the nature of the offence and the character of the offender, the issue of such order is appropriate:

Provided that where in the opinion of the court circumstances, which are to be clearly stated in the order, exist that merit the placing of the offender under a probation order in the case of an offence which, apart from any increase of punishment in view of continuity or of previous conviction, is punishable with imprisonment for a term exceeding seven years but not ten years, the court may make a probation order:

Provided that the Court may, if it deems it to be in the best interest of the person accused, issue a provisional order of supervision of the accused by a probation officer, even during any criminal proceedings, under such conditions as the Court may deem fit.

(3) Without prejudice to the provisions of the following subarticles of this article, 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 the offender of the same offence or the commission of other offences, and the court may also give to the probation officer such directions as it may deem necessary for securing these purposes.

(4) 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 contains any such requirements, the place at which the probationer is to reside thereat shall be specified in the order. If the probationer is required to reside in an institution, the period for which the offender is required to reside shall not extend beyond twelve months from the date of the order.

(5) Without prejudice to the generality of subarticle (2) of this article, where in the opinion of the court the mental condition of the offender is such as requires and as may be susceptible to treatment, but not such as to justify other measures or procedures, or where the court is satisfied that -

(a) the offender is a drug addict; and

(b) that proper arrangements have been or can be made for treatment,

a probation order may include a requirement that the offender shall submit to treatment not exceeding the length of the order by or under the directions of a suitably qualified person with a view to the improvement of the offender's mental condition or with a view to freeing the offender from drug addiction.

The treatment may be of any of the following kinds:

(c) treatment as a non-resident patient in a hospital or other appropriate agency or institution;

(d) treatment as a resident patient in a hospital or other appropriate agency or institution; or

(e) treatment by or under the direction of a suitably qualified person as may be specified in the order.

In any such case an amendment of the order under article 10 of this Act may also be made on an application made by a suitably qualified person, in conjunction with the probation officer, responsible for the treatment of the offender.

(6) Where the court deems that such an order may help in the rehabilitation of the offender, it may include as a condition in the probation order, an order that for a period not exceeding six weeks the probationer shall, when not required to be out to work or study, present himself and remain at such residential institutions as may be approved by the Minister for the purpose, provided that such requirement may be restricted by the court to Saturdays and public holidays and the period after seven in the evening on the eve of Saturdays and public holidays.

(7) 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 subarticle (3), subarticle (4), subarticle (5) or subarticle (6) of this article, and that if the offender fails to comply therewith or commits another offence, the offender will be liable to be sentenced for the original offence. If the offender is not less than fourteen years of age, the court shall not make the order unless the offender expresses willingness to comply with the requirements thereof.

(8) The court by which a probation order is made shall forthwith give copies of the order to the probationer, to the Director who shall assign a probation officer to be responsible for the supervision of the probationer, and to the person in charge of any institution or hospital or other place in which the probationer is required by the order to reside. If the probationer is a minor, a copy of the probation order shall also be furnished to the parent or person charged with the upbringing of the probationer, if any.

8. (1) Subject to the directions of the court by which a probation order is made, it shall be the duty of a probation officer -

Duties of probation officer.

- (a) to advise and assist the probationer;
- (b) to visit and receive reports from the probationer and other professionals involved in the case, at such reasonable intervals as may be specified in the probation order, or, subject thereto, as the Director may think fit;
- (c) to plan, monitor, and assist the probationer in fulfilling the conditions of the probation order;

(d) to secure the compliance of the offender to any community sanction;

(e) to arouse consciousness of the probationer to the harm caused to the victim of crime and society;

(f) to report to the court verbally or in writing, at least once every six months, as to the progress of the probation;

(g) where necessary, to assist the probationer in furthering appropriate social and educational endeavors;

(h) where necessary, to assist the offender in finding suitable employment;

(i) to keep detailed records on each person under his care who has been sentenced to a community sanction;

(j) to provide verbal or written reports on the progress made by the probationers to the Director; and

(k) to act in accordance with the instructions of the Director when a probationer is to be arraigned in court after a breach of the conditions of a community sanction.

(2) It shall also be the duty of a probation officer to inquire, in accordance with any directions of the court, into the circumstances or home surroundings of any probationer with a view to assisting the court in determining the most suitable method of dealing with the case.

Selection of probation officers.

9. (1) The Director shall, after consultation with the court, assign a probation officer to be responsible for the supervision of a probationer:

Provided that more than one probation officer may be assigned to the same probationer, each dealing with a particular aspect of the case as the Director may determine.

(2) The Director, where the circumstances permit, shall assign a probation officer experienced in dealing with children or young persons to supervise an offender who is under the age of sixteen years.

Discharge and amendment of probation order.

10. (1) The court by which the probation order was made may, upon application made by the Director or by the probationer, cancel the order.

(2) The court by which the probation order was made may, upon application made on a report from the probation officer or upon application made by the Director 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 if it were then being made by that court in accordance with the provisions of article 7 of this Act:

Provided that -

(a) the court shall not amend a probation order by reducing the probation period to less than one year or by extending that period beyond the end of three years from the date of the original order,

(b) when the court proposes to amend a probation order, otherwise than on the application of the probationer, it shall summon the probationer 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 until the probationer expresses willingness to comply with the requirements of the order as amended.

(3) On the making of an order cancelling or amending a probation order, the provisions of subarticles (7) and (8) of article 7 shall *mutatis mutandis* apply.

(4) 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. The court shall direct that a copy of the judgment be transmitted without delay to the Director.

**11.** (1) A community service order may be given to an offender aged sixteen years and over, convicted of an offence for which, in the opinion of the Court, the appropriate sentence would, except for the provisions of this article, be one of imprisonment. Such an offence must not be punishable only by a fine (*multa* or *ammenda*) and cannot be an offence, which apart from any increase in punishment in view of the continuity or of previous convictions, is punishable with imprisonment exceeding seven years and the provisions of the proviso to subarticle (2) of article 7 shall apply *mutatis mutandis* to this subarticle.

Community service order.

(2) The court may, instead of sentencing the offender to imprisonment, order the offender to be placed on a community service

order. A community service order shall require the offender to perform unpaid work for a number of hours as specified in the order. In any such case no order shall require the offender to perform less than 40 hours of work or more than 240 hours.

(3) The court shall not make a community service order unless the following conditions have been met:

(a) the court is satisfied, after considering the offender's circumstances and the pre-sentencing report, that the offender is suitable to perform work under such an order;

(b) that arrangements can be made for such work;

(c) the offender has agreed to the order; and

(d) the offender has signed the community service work agreement form.

(4) Before making a community service order in respect of an offender the court shall explain to the offender in ordinary language the effect of the order and that if the offender fails to comply therewith or commits another offence, the offender will be liable to be sentenced for the original offence.

(5) The court by which the community service order is made shall forthwith give copies of the order to the offender, to the Director, the community service officer assigned to the case by the Director, and to the agencies and authorities responsible for the supervision of the community service order.

(6) It shall be duty of the Director to assign work to the probationer in accordance with the community service order.

Regulation of hours  
of work.

12. (1) Where a court makes community service orders in respect of two or more offences of which the offender has been convicted by the court, the court may direct that the hours of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders.

(2) Where a court makes a community service order and there is in force in respect of the offender at the time of the making of that order another such order (made by the same or a different court) the court making the later order may direct in that order that the hours of work specified therein shall be concurrent with or additional to those specified in the earlier order.

(3) When a court makes a community service order and there is in force a prison sentence or the offender is detained without bail, the community service order shall come into effect after the release of the offender from prison, provided that the community service officer in charge of the case is of the opinion that the offender is still suitable to perform community service work. If the offender is not still suitable to perform the community service required, the community service officer shall return the case to the court. In such cases the court shall deal with the offender as if the community service order had never been made.

13. An offender in respect of whom a community service order is in force shall:

Duties of offender under community service order.

(a) report to the relevant authority from time to time according to the instructions issued by the community service officer;

(b) perform satisfactorily for the number of hours specified in the order such work at such times as shall be directed by or on behalf of the relevant authority;

(c) notify the community service officer to whom the offender is required to report under this subarticle of any change of his address.

14. (1) Subject to the provisions of article 10, the work to be performed under a community service order shall be performed in the period of not less than three months and not more than one year beginning on the date of the order but, unless revoked, the order shall remain in force until the offender has worked under it for the number of hours specified in it.

Community service work.

(2) Directions given under subarticle (1) of this article shall, so far as practicable, avoid any interference with the times during which the offender normally works or attends a school or other educational or training establishment.

(3) An offender who fails to comply with any requirement contained in article 13, shall be guilty of an offence and, without prejudice to the continuance in force of the community service order, shall be liable on summary conviction to a fine (*ammenda*) not exceeding Lm 100.

15. When an offender is convicted of an offence under subarticle (3) of article 14 of this Act, the court which had issued the order, in lieu

Breach of community service order.

of imposing a fine under that article may, either revoke the order or revoke it and deal with the offender for the offence in respect of which the order was made in any manner in which the offender could have been dealt with for that offence if the order had not been made.

Extension.

**16.** Where a community service order is in force, on application of the offender or the Director, and if it appears to the court to be in the interest of justice, having regard to the circumstances of the case, the court may extend the period of one year for six months, in order that the community service is carried out.

Summoning of offender.

**17.** In the cases contemplated under articles 15 or 16 of this Act the court shall summon the offender to appear before it and, if the offender does not appear in answer to the summons, it may order that the offender be brought under arrest.

Combination order.

**18.** The court may, instead of sentencing the offender to imprisonment, order the offender to be placed on a combination order. A combination order shall require the offender to be placed under probation supervision as specified in article 7 of this Act and perform a community service order, as specified in article 11 of this Act. Nevertheless, such order shall not require the offender to perform less than 40 hours of work or more than 100 hours in addition to any number of hours of work still to be performed under any previous community service order.

Duties of offender under combination order.

**19.** An offender in respect of whom a combination order is in force shall:-

(a) report to the probation officer assigned to him by the Director from time to time according to the instructions issued by the probation officer;

(b) report to the relevant authority from time to time according to the instructions issued by the community service officer;

(c) perform satisfactorily for the number of hours specified in the order such work at such times as shall be directed by or on behalf of the relevant authority;

(d) notify the community service officer to whom the offender is required to report under this subarticle of any change of his address.

20. The provisions of this Act applicable to probation orders and community service orders shall apply to combination orders. Applicable rules.

21. (1) If at any time during the probation period it appears to the court by which the order was made that the probationer has failed to comply with any of the requirements of the order, the court may issue a summons requiring the probationer to appear before such court at the place and time specified therein, or may, if the circumstances so require, issue a warrant for the probationer's arrest. Breach of conditions.

Provided that except where the alleged failure is brought to the attention of the court in a report by the probation officer, no such summons or warrant shall be issued -

(a) by the Criminal Court, or by the Court of Criminal Appeal except on an information in writing filed by the Attorney General;

(b) by the Court of Magistrates (Malta), the Court of Magistrates (Gozo) or by the Juvenile Court, except on an information in writing and confirmed on oath.

In either case the information must be filed within three months of the alleged failure by the probationer.

(2) If it is proved to the satisfaction of the court, that the probationer has failed to comply with any of the requirements of the community sanction order, that court may, without prejudice to the continuance of the sanction, impose on the offender a fine (*ammenda*) not exceeding one hundred liri, or may deal with the probationer, for the offence in respect of which the community sanction was made, in any manner in which the court could deal with the offender if he had just been convicted by or before that court of that offence.

(3) A fine imposed under this article in respect of a failure to comply with the requirements of a probation order shall be deemed for the purposes of any enactment, but saving the provisions of subarticle (1) of article 22 of this Act, to be a sum adjudged to be paid following a conviction.

22. (1) Where a court by which a person is convicted of an offence (not being an offence punishable only by a fine (*multa* or *ammenda*) and not being an offence which apart from an increase of punishment in view of continuity or previous convictions, is punishable with imprisonment for a term exceeding seven years) is of opinion that, having regard to the circumstances of the case, including the nature of the offence and the character of the offender, it is inexpedient to inflict Absolute or conditional discharge.

punishment and that a probation order, a community service order or a combination order are not appropriate, the court may make an order discharging the offender absolutely, or, if the court thinks fit, discharging the offender 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. The provisions of the proviso to subarticle (2) of article 7 shall *mutatis mutandis* apply to this subarticle.

(2) An order discharging a person subject to such a condition as aforesaid 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 that if the offender commits another offence during the period of conditional discharge, the offender will be liable to be sentenced for the original offence.

(4) Where, under the provisions in this Act, a person conditionally discharged is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

Conviction  
following an order.

23. (1) If a person in whose case a community sanction or an order for conditional discharge has been made, is subsequently convicted by or before any court of an offence committed during the probation period or during the period of conditional discharge, the court -

(a) if it is the same court that had made the probation order, the community service order, the combination order or the order for conditional discharge, may deal with that person for the offence for which the order was made in any manner in which it could deal with the offender if he had just been convicted by or before that court of that offence;

(b) if it is a different court, it shall commit that person before the court by which the probation order, the community service order, the combination order or the order for conditional discharge was made and such court shall as soon as practicable, cause such person to appear or be brought before it, and on proof to its satisfaction of the conviction in respect of the further offence, may deal with that person for the offence for which the order was made in any manner in which it could deal with the offender if he had just been convicted by or before it of that offence.

(2) Subject to the provision of subarticle (3), where a person is dealt with for the offence for which he was placed on probation on a community service order or a combination order or conditionally discharged, it shall not be lawful for the court to place the offender under a community sanction or to make an order as provided in subarticle (1) of article 22 of this Act.

(3) Subarticle (2) shall not apply where the offence committed during the probation period or during the period of conditional discharge and for which the person is subsequently convicted, is a contravention or is a crime of involuntary homicide, or involuntary bodily harm, or involuntary damage to property.

(4) For the purpose of subarticle (1) -

(a) the Court of Magistrates (Malta), the Court of Magistrates (Gozo) and the Juvenile Court shall be deemed to be the same court;

(b) the Court of Criminal Appeal in the determination of appeals from judgments of the Courts of Magistrates (Malta), the Court of Magistrates (Gozo) and the Juvenile Court shall be deemed to be a different Court from the Court of Criminal Appeal in the determination of appeals for decisions of the Criminal Court.

**24.** (1) A court, on making a probation order, community service order, combination order, an order for conditional discharge or on discharging any offender absolutely may, without prejudice to its power of awarding costs under articles 380 and 533 of the Criminal Code, order the offender to pay such damages for injury or compensation for the loss as the court thinks reasonable. Payment of damages.

(2) An order for the payment of damages or compensation as aforesaid may be enforced in like manner as if it had been given in a civil action between the offender and the person to whom the damages or compensation are ordered to be paid:

Provided that nothing in this article shall derogate from any right of such person to recover any greater amount by any other means from the offender or any other person liable to pay the same.

**25.** (1) Subject as hereinafter provided, a conviction for an offence for which an order is made under this Act placing the offender on a community sanction or discharging the offender absolutely or conditionally shall be deemed not to be a conviction for any purpose whatsoever other than - Effects of community sanction and discharge.

(a) 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, and

(b) in the case of a public officer, the purposes or any disciplinary proceedings which may be taken against, or any disciplinary punishment which may be imposed upon, such public officer in consequence of any such conviction or of any of the facts constituting the offence:

Provided that where an offender, being not less than eighteen years of age at the time of the conviction of an offence for which he is placed on a community sanction or conditionally discharged as aforesaid, is subsequently sentenced for that offence, the provisions of this subarticle shall cease to apply to the conviction.

(2) Without prejudice to the foregoing provisions of this article, the conviction of an offender who is placed on probation, on a community service order, on a combination order or discharged absolutely or conditionally as aforesaid shall in any event be disregarded for the purposes of any enactment which imposes or authorizes any interdiction, disqualification, disability or other penalty upon convicted persons.

(3) The provisions of subarticle (1) of article 7, of subarticle (2) of article 11, of article 18, and of subarticles (1) and (2) of article 23 of this Act shall not affect -

(a) any right of any such offender as aforesaid to appeal against the conviction or to rely thereon in bar of any subsequent proceedings for the same fact;

(b) the reversioning or restoration of any property in consequence of the conviction of any such offender;

(c) the operation of article 23 of the Criminal Code or of any other provision of that Code or of any other law relating to the forfeiture of any property or its retention by the registrar of any court or by any other officer authorized by law to seize or to retain any property connected with criminal proceedings;

(d) the making of any order under article 377 of the Criminal Code or under the provisions or any other law requiring or authorizing the making of any order for the abatement of a nuisance or inconvenience or for the carrying out of the law by the offender or by the Police at the expense of the offender;

(e) the liability of any such offender as aforesaid to be required by the court to enter into his own recognizance or to find a surety in terms of articles 249, 383 and 384 of the Criminal Code;

(f) the making of any order by the court as to the payment of costs under articles 380 and 533 of the Criminal Code;

(g) the operation of sub-articles (3), (5) and (6) of article 35 of the Criminal Code;

(h) the right of any interested party to produce when appropriate in any criminal or civil proceedings evidence to show that a person discharged absolutely or conditionally as aforesaid or in respect of whom a community sanction has been made, who is a party to the proceedings or is produced as a witness, has been convicted of an offence, provided such evidence is considered by the court to be relevant.

26. The Minister may make regulations -

Regulations.

(a) prescribing the qualifications for appointment of probation officers;

(b) prescribing the duties of the Director;

(c) prescribing any duties of probation officers in addition to those provided by this Act;

(d) prescribing the forms of records to be kept by probation officers under this Act;

(e) providing for regulations for the performance of work under community service orders;

(f) limiting the number of hours of work to be done under such an order on any one day;

(g) providing for the reckoning of time worked under such orders;

(h) regulating the discipline in, and other matters relating to residential institutions approved by the Minister for the purposes of subarticle (6) of article 7 of this Act; and

(i) generally for the better carrying out of the purposes and provisions of this Act.

Rules of Court.  
Cap. 12.

27. The Board referred to in article 29 of the Code of Organization and Civil Procedure may, in accordance with the provisions of that article, make Rules of Court regulating any matter or proceeding had or taken under this Act and prescribing the forms to be used for any such matter or proceeding and the fees payable in respect thereto.

Transitory  
provision.  
Cap. 152.

28. (1) Subject to the provisions of subarticle (2) hereof, the Probation of Offenders Act is hereby repealed.

(2) The provisions of the Probation of Offenders Act, shall continue to apply to any order or conditional discharge issued under the provisions thereof prior to the coming into force of this article.

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Passed by the House of Representatives at Sitting No. 735 of 14th May, 2002.

ANTON TABONE  
*Speaker*

RICHARD J. CAUCHI  
*Clerk to the House of Representatives*