CHAPTER 30.

An Act to amend the law relating to Probation of Offenders in Scotland. [31st July 1931.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Probation officers.
7 Edw. 7. c. 17.

1.—(1) For the purposes of the Probation of Offenders Act, 1907 (in this Act referred to as "the principal Act"), one or more salaried probation officers shall be appointed for every probation area, and it shall be the duty of such probation officers to undertake the supervision of persons in respect of whom supervision is required by a probation order whether made by a court of summary jurisdiction, by the sheriff, or by the High Court of Justiciary:

Provided that this subsection shall not apply in any probation area where it is shown to the satisfaction of the Secretary of State that no salaried probation officer is necessary.

(2) The probation committee of a probation area shall pay such sums by way of salary or remuneration to the salaried probation officers appointed for the area and the probation committee may pay to such probation officers, and to any voluntary probation officers named in probation orders made by the sheriff or by any court of summary jurisdiction in the area or made by the High Court of Justiciary in respect of persons who have been committed for trial in the area, such sums on account of expenses incurred by those officers in the performance of their duties as, subject to the provisions of this Act with respect to scales of salaries, remuneration and expenses, may be agreed upon between the committee and the local authority concerned, or, failing agreement, may be determined by the Secretary of State.

12 & 13 Geo. 5. c. 59.

(3) (*a*) For the purposes of the Local Government and other Officers' Superannuation Act, 1922, a salaried probation officer for any probation area shall be deemed

to be an officer in the permanent service of the local authority for the area occupying a post which the local authority may designate as an established post for the said purposes;

(*b*) In the application of the last foregoing paragraph to a probation area which comprises in whole or in part the areas of two or more local authorities there shall be substituted for the local authority for the area—

(i) in the case where the aforesaid Act of 1922 applies to only one of such authorities, that authority;

(ii) in the case where the said Act applies to more than one of such authorities, such one of the authorities to whom the Act applies as may be agreed between them or, failing agreement, be determined by the Secretary of State;

(*c*) Any equivalent contribution under section eighteen of the aforesaid Act of 1922 which is payable in pursuance of this subsection in respect of a salaried probation officer for any probation area shall be paid by the probation committee for the area and shall be included among the expenses to which subsection (1) of section six of this Act applies;

(*d*) References in this subsection to the Local Government and other Officers' Superannuation Act, 1922, and to the equivalent contribution under section eighteen thereof, shall be deemed to include, respectively, references to any provisions in a local Act or in any scheme thereunder relating to the superannuation of the officers or servants of a local authority and to any payment in pursuance of such provision or of any scheme thereunder similar to the said equivalent contribution. Provided that for the purposes of any such Act or scheme which contains no provision for the designation of posts as established posts a salaried probation officer shall be deemed to be an officer or servant of the local authority if the local authority so determine.

(4) In addition and without prejudice to the provisions of section four of the principal Act (which relates to the duties of probation officers) it shall be the duty of a probation officer, subject to the discretion of the court, to perform such other duties in connection with the probation of offenders as may be prescribed.

Probation areas.

2.—(1) Subject as hereinafter provided, each large burgh and each county inclusive of every small burgh situate therein shall be a probation area:

Provided that—

(i) for the purposes of this subsection the counties of Perth and Kinross shall be deemed to be one county and the counties of Moray and Nairn shall be deemed to be one county; and

(ii) the Secretary of State, if the circumstances seem to him to render such a course expedient, may by Order direct that any two or more of the areas aforesaid be combined, in whole or in part, to form one probation area or that any county (including as aforesaid) shall be divided into two or more probation areas.

(2) Before making any order under the immediately preceding subsection, the Secretary of State shall give to each sheriff having jurisdiction in any part of the area to which the proposed order will apply, and to the local authority of any county or burgh to which the proposed order will apply, an opportunity of making any representations which they may desire to make with respect to the proposed order.

(3) In this section the expression "sheriff" does not include sheriff substitute.

Probation committees.

3.—(1) There shall be a probation committee for every probation area.

(2) The probation committee shall consist (in addition to the members ex officio under the next succeeding subsection) of such number of persons as may be prescribed (not being less than five nor, except where, in the opinion of the Secretary of State, the circumstances of the area otherwise require, more than fifteen), and such persons (of whom at least one shall be a woman) shall be appointed, in accordance with rules made by the Secretary of State, by the local authority for the probation area or, where the probation area comprises in whole or in part the areas of two or more local authorities, by these local authorities.

(3) The sheriff of each county wholly or partly comprised in a probation area, and any one or more sheriffs substitute having jurisdiction in any such county whom the sheriff may nominate for the purpose, shall be members ex officio of the probation committee for that area.

(4) It shall be the duty of the probation committee for a probation area—

(*a*) to appoint, subject to the approval of the Secretary of State, salaried probation officers for the probation area;

(*b*) to supervise the work and receive the reports of probation officers;

(*c*) to comply with any rules made under this Act so far as relating to probation committees; and

(*d*) to perform such other duties in connection with the probation of offenders as may be prescribed or as the Secretary of State may by order direct.

Selection of probation officers.

4.—(1) Where a court makes a probation order, it may, as in its discretion it shall think fit, nominate a salaried or a voluntary probation officer, or a salaried and a voluntary probation officer to act jointly, and any salaried probation officer so nominated shall, where the probation order is made by the sheriff or by a court of summary jurisdiction, be selected from among the probation officers for the probation area in which the order is made and, where the probation order is made by the High Court of Justiciary, be selected from among the probation officers appointed for the probation area in which the offender was committed for trial:

Provided that—

(*a*) if the court making the order thinks it desirable so to do, having regard to the place of residence of the offender or for any other special reason, the court may nominate as the salaried probation officer to act under the order either alone or jointly with a voluntary probation officer a salaried probation officer for any other probation area.

(2) Where the circumstances permit, the court shall nominate a probation officer who is a woman to supervise

an offender who is a woman and a probation officer experienced in dealing with children or young persons to supervise an offender who is under the age of seventeen years.

(3) The court by which a probation order has been made shall, where the probation officer named in the probation order dies or is unable for any reason to carry out his duties, or where the court for any reason considers it desirable that another probation officer should be nominated in the place of the officer named in the order, nominate another probation officer to act under the order.

Provision as to employment of certain persons as probation officers.

5.—(1) It shall be lawful to appoint as a salaried probation officer for any area or to nominate in a probation order as a voluntary probation officer a person who is the agent of a voluntary society.

(2) In this section the expression "voluntary society" means a society carrying on mission work in connection with police courts or other work in connection with the supervision and care of offenders or in connection with social service.

(3) It shall not be lawful to appoint as a salaried probation officer for any area or to nominate in a probation order as a voluntary probation officer a person who is or has at any time been a member of a police force.

Salaries and expenses.

6.—(1) The sums required to meet—

(*a*) any expenses incurred by a probation committee in respect of (i) the salaries or remuneration payable to salaried probation officers, and (ii) expenses of probation officers; and

(*b*) any other expenses of a probation committee which may be incurred in accordance with rules made by the Secretary of State

shall be defrayed, in accordance with the rules so made, by the local authority for the probation area:

Provided that, where a probation area comprises in whole or in part the areas of two or more local authorities, the sums to be defrayed as aforesaid by the local authority shall be apportioned between the several local authorities in such manner as may be

agreed upon between them or, in default of agreement, according to the rateable valuation in the valuation roll of the respective areas of the local authorities so far as within the probation area.

(2) It shall be lawful for a local authority to contribute towards the expenses of maintaining persons who have been released on a probation order containing a condition as to residence and towards any travelling expenses incurred in respect of such persons.

(3) There shall be paid out of moneys provided by Parliament towards the expenditure of local authorities under this Act, including any contribution under the immediately preceding subsection, such sums as the Secretary of State with the approval of the Treasury may direct and subject to such conditions as he may with the like approval determine.

Exercise of powers of courts with regard to offenders.

7.—(1) Any power exerciseable by a court with regard to an offender bound by a bond to appear before such court for conviction and sentence or for sentence may be exercised by any court before which the offender is charged with the commission of another offence, or which has jurisdiction in the place where the offender for the time being resides, provided that where the court before which the offender is so bound to appear is the High Court of Justiciary or a sheriff court, such power as aforesaid shall not be exerciseable by any court of summary jurisdiction other than the sheriff court.

(2) Any power which a court is empowered to exercise on being satisfied that an offender has failed to observe any conditions of his bond (other than a power to vary the terms of the bond or to nominate another probation officer) may be exercised notwithstanding that the period of duration of the bond has expired.

Amendments of Act of 1907 as to powers of courts, &c.

8.—(1) Section one of the principal Act shall have effect as if there were substituted in subsections (1) and (2) of the said section for the words "release the offender on probation" the words "deal with the offender in the manner hereinafter set forth."

(2) Section one of the principal Act shall have effect as if the following subsection were substituted for subsection (3):—

"(3) The court where it makes an order under this section—

(*a*) may further order that the offender, or the parent or guardian of an offender being a child or a young person, shall pay the costs of the proceedings or such damages for injury or compensation for loss (not exceeding, in the case of a court of summary jurisdiction, ten pounds, or, if a higher limit is fixed by any enactment relating to the offence, that higher limit) as the court thinks reasonable or both such costs and damages or compensation;

(*b*) may further, in the case where the offender is a child or young person, impose a fine on the parent or guardian of the child or young person:

Provided that the court shall not order payment of any costs, damages, compensation or fine by a parent or guardian unless it is satisfied that the parent or guardian has conduced to the commission of the offence by neglecting to exercise due care of the child or young person."

(3) A person in respect of whom an order has been made by a court of summary jurisdiction under subsection (1) of section one of the principal Act shall have the like right of appeal against such order as in the case of a conviction.

(4) The period of supervision to be specified in a probation order shall be not less than one year and accordingly subsection (1) of section two of the principal Act shall have effect as if after the word "period" there were inserted the words "(which shall not be less than one year)".

(5) The court before which an offender is bound by his bond to appear for conviction and sentence or for sentence, if satisfied by information on oath

that the offender has failed to observe any of the conditions of his bond—

(*a*) may, without the necessity of summoning the offender or his cautioners (if any) to appear before it, vary the terms of the bond by extending the duration thereof, provided that the duration of a bond shall not exceed three years from the date of the original order and that the obligation of any cautioner shall not be extended except with his consent;

(*b*) may, instead of sentencing the offender for the original offence and without prejudice to the continuance in force of the bond, or to any variation of the terms thereof in pursuance of the immediately preceding paragraph, impose on him in respect of such failure a penalty not exceeding ten pounds, and, where the offender is a child or young person, order that the fine be paid by the parent or guardian of the child or young person.

(6) Where it is proved to the satisfaction of the court before which an offender is bound by his bond to appear for conviction and sentence or for sentence that the offender has failed to observe any of the conditions of his bond, and where it appears to the court that the offender is not less than sixteen nor more than twenty-one years of age, and where the court is of opinion having regard to the whole circumstances of the case that the offender should be so dealt with, the court may pass a sentence of detention for a term of not less than two years nor more than three years in an institution established in Scotland under Part I of the Prevention of Crime Act, 1908, provided that where the court is a court of summary jurisdiction other than the sheriff court, it shall in lieu of the power to pass such sentence as aforesaid have power to remit the offender to the sheriff court in manner provided by section nine of the Summary Jurisdiction (Scotland) Act, 1908, and the sheriff court shall on such remit being made have the like power in regard to such offender as if he had been bound to appear before that court for conviction and sentence or for sentence.

8 Edw. 7. c. 59.

8 Edw. 7. c. 65.

Power to make rules.

9. The Secretary of State may make rules for carrying this Act into effect and in particular—

(*a*) for prescribing, subject to the provisions of this Act, the constitution, procedure, powers and duties of probation committees and the tenure of office of the members thereof;

(*b*) for fixing scales of salaries and remuneration to be paid in the case of salaried probation officers and of the expenses to be allowed to those officers and to voluntary probation officers and for regulating any other expenditure of probation committees;

(*c*) for prescribing the qualifications of salaried probation officers and the terms and conditions on which they shall hold their appointments, and, subject to the provisions of this Act, the duties of probation officers;

(*d*) for requiring probation committees to furnish reports with respect to the probation of offenders in their area;

(*e*) for empowering local authorities to appoint the officials (other than probation officers) of probation committees;

(*f*) for the auditing of the accounts of probation committees;

(*g*) for prescribing anything which under this Act is to be prescribed.

Local authorities and expenses.

10. The local authority for the purposes of this Act shall be, in the case of a large burgh, the town council thereof, and in the case of a county, including every small burgh situate therein, the county council, and any expenses incurred by a county or town council under this Act shall be defrayed out of such rate payable by owners and occupiers in equal proportions as the council may determine.

Construction.

19 & 20 Geo. 5. c. 25.

11.—(1) In this Act, unless the context otherwise requires, "large burgh" and "small burgh" have the like meaning as in the Local Government (Scotland) Act, 1929; "probation officer" includes salaried probation officer and voluntary probation officer; "salaried probation officer" means a probation officer appointed under

section three of this Act, whether he is or is not restricted by the terms of his appointment from engaging in other business or employment; "voluntary probation officer" means a person (other than a salaried probation officer) named in a probation order as a person under whose supervision the offender is to be; "child" means a person under the age of fourteen years; "young person" means a person who is not less than fourteen nor more than seventeen years of age; "committed for trial" means committed until liberation in due course of law; and any reference to a probation order made by the sheriff shall be construed as a reference to a probation order made by the sheriff sitting with a jury.

(2) This Act and the principal Act as it applies to Scotland shall be construed as one.

(3) Unless the context otherwise requires, any reference in this Act to any statutory provision shall be construed as a reference to the statutory provision as amended by any subsequent Act, including this Act.

Citation, commencement and repeal.

12.—(1) This Act may be cited as the Probation of Offenders (Scotland) Act, 1931, and shall extend to Scotland only.

(2) This Act shall come into operation on the first day of January, nineteen hundred and thirty-two.

(3) The provisions of the principal Act specified in the Schedule to this Act are hereby repealed.

SCHEDULE.

Section 12.

PROVISIONS OF PRINCIPAL ACT REPEALED.

Subsections (2) to (6) of section three. In section eight, paragraphs (1), (2), (3) and (5), and in paragraph (4) all the words after "recognizance."