

CHAPTER 64

PROBATION OF OFFENDERS ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

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APPLICATION OF ACT UNDER SECTION 1

[Cap. 79 (1948), Sub. Leg., Proc. 29/1950, Proc. 10/1952, L.N. 475/1957, L.N. 617/1960,
L.N. 618/1960, L.N. 619/1960.]

The Act applies to the following areas—

The Central Province.

The Coast Province.

The Nyanza Province.

The Rift Valley Province.

Kajiado District.

Kitui District.

Machakos District.

Nairobi Area.

PROBATION OF OFFENDERS (CENTRAL PROBATION COMMITTEE) RULES

ARRANGEMENT OF RULES

Rule

1. Citation.
 2. Establishment of Central Probation Committee.
 3. Constitution of Committee.
 4. Duties of the Committee.
 5. Meetings of the Committee.
 6. Procedure at meetings.
 7. Quorum of the Committee.
 8. Voting.
 9. Records.
 10. Committee may regulate procedure.
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[Subsidiary]

Rules under sections 16(2) and 17

**PROBATION OF OFFENDERS (CENTRAL
PROBATION COMMITTEE) RULES**

[L.N. 198/1958, L.N. 730/1961, L.N. 29/1964, L.N. 206/1966, L.N. 87/1973.]

1. Citation

These Rules may be cited as the Probation of Offenders (Central Probation Committee) Rules.

2. Establishment of Central Probation Committee

There is hereby established a probation committee, to be known as the Central Probation Committee, hereinafter referred to as the Committee.

3. Constitution of Committee

(1) The Committee shall consist of—

- (a) a chairman, who shall be the Chief Justice; and
- (b) ten members appointed by the Minister representing respectively—
 - (i) the Ministry for the time being responsible for probation services;
 - (ii) the Ministry for the time being responsible for labour matters;
 - (iii) the Ministry for the time being responsible for social services;
 - (iv) the Kenya Police;
 - (v) the Nairobi City Council;
 - (vi) the Christian Council of Kenya;
 - (vii) the Roman Catholic Church;
 - (viii) the Salvation Army;
 - (ix) the Nairobi Chamber of Commerce; and
- (c) not more than six other members appointed by the Minister.

(2) The members of the Committee appointed under subparagraph (c) of paragraph (1) shall hold office for three years, but shall be eligible for reappointment.

(3) Any member of the Committee appointed under subparagraph (c) of paragraph (1) may at any time resign his office by notice in writing addressed to the secretary of the Committee, who shall forward it to the Minister.

(4) The principal probation officer shall be secretary of the Committee.

(5) All appointments and resignations of members appointed under subparagraph (c) of paragraph (1) shall be notified in the *Gazette*.

4. Duties of the Committee

The duties of the Committee shall be—

- (a) to make recommendations to the Minister concerning the allocation of the services of probation officers to various areas;
- (b) to receive and consider the recommendations of the Probation Case Committee of any area concerning the needs or working of the probation service, and to advise the Minister on all matters arising therefrom, other than administrative matters;
- (c) to make recommendations to the Minister relating to the duties of the Committee and of Probation Case Committees;
- (d) to advise the Minister on any question of policy and upon any other matter relating to the probation service as he may refer to it for advice.

5. Meetings of the Committee

The Committee shall hold a meeting for the transaction of general business at least once in every three months and at such other times as the chairman may direct.

6. Procedure at meetings

The chairman shall preside at every meeting at which he is present, and, in the case of his temporary absence, the members present and constituting a quorum shall elect a chairman from among their number.

7. Quorum of the Committee

A quorum of the Committee shall be five.

8. Voting

- (1) The decisions of the Committee shall be by a majority of votes.
- (2) The chairman shall have a casting as well as a deliberative vote.

9. Records

The secretary shall maintain records of the proceedings of the Committee and perform such other duties as may be assigned to him by the Committee.

10. Committee may regulate procedure

Subject to the provisions of these Rules, the Committee shall have power to regulate its own proceedings.

PROBATION OF OFFENDERS (CASE COMMITTEES) RULES

ARRANGEMENT OF RULES

Rule

1. Citation.
 2. Establishment of committees.
 3. Constitution of committees.
 4. Duties of the committees.
 5. Meetings of committees.
 6. Procedure at meetings.
 7. Quorum of the committee.
 8. Voting.
 9. Records.
 10. Committees may regulate procedure.
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[Subsidiary]

PROBATION OF OFFENDERS (CASE COMMITTEES) RULES

[L.N. 206/1958, L.N. 411/1959, L.N. 426/1959, L.N. 644/1960, L.N. 383/1962.]

1. Citation

These Rules may be cited as the Probation of Offenders (Case Committees) Rules.

2. Establishment of committees

(1) There are hereby established the probation case committees set out in the first column of the Schedule.

(2) The area in respect of which each committee is established is set out in the second column of the Schedule.

3. Constitution of committees

(1) Each probation case committee, hereinafter referred to as a committee, shall consist of a chairman and seven members appointed by the Permanent Secretary, and the principal probation officer, who shall be an *ex officio* member.

(2) The members of a committee, other than *ex officio* members, shall hold office for three years, but shall be eligible for reappointment.

(3) Any member of a committee may at any time resign his office by notice in writing addressed to the secretary who shall forward it to the Permanent Secretary.

(4) A probation officer stationed within the area in respect of which a committee is established shall be secretary of the committee.

(5) All appointments to and resignations from a committee shall be notified in the *Gazette*.

4. Duties of committees

The duties of a committee shall be—

- (a) to examine and review the work of probation officers in relation to individual cases;
- (b) to receive and consider reports from probation officers;
- (c) to make or direct the making of any communication which it may be necessary to make to the court;
- (d) to make or direct the making to the Central Probation Committee of recommendations concerning the probation service;
- (e) to advise and assist probation officers in the execution of their duties;
- (f) to ensure that probation officers perform their duties in a satisfactory manner.

5. Meetings of committees

A committee shall hold a meeting for the transaction of general business at least once in every six months and at such other times as the chairman may direct.

6. Procedure at meetings

The chairman shall preside at every meeting at which he is present, and, in the case of his temporary absence, the members present and constituting a quorum shall elect a chairman from among their numbers.

7. Quorum of a committee

A quorum of a committee shall be three.

8. Voting

(1) The decisions of a committee shall be by a majority of votes.

(2) The chairman shall have a casting as well as a deliberative vote.

9. Records

The secretary shall maintain records of the proceedings of a committee and perform such other duties as may be assigned to him by a committee.

10. Committees may regulate procedure

Subject to the provisions of these Rules, a committee shall have power to regulate its own proceedings.

SCHEDULE

[Rule 2.]

<i>Name of Committee</i>	<i>Area in respect of which Committee appointed</i>
Nairobi Probation Case Committee	Nairobi Area.
Mombasa Probation Case Committee	Mombasa District.
Machakos Probation Case Committee	Machakos District.
Nakuru Probation Case Committee	Nakuru District.
Thika Probation Case Committee	Thika District.
Kericho Probation Case Committee	Kericho District.
South Nyanza Probation Case Committee	South Nyanza District and Kisii District.
North Nyanza Probation Case Committee	North Nyanza District.
Central Nyanza Probation Case Committee	Central Nyanza District.
Kiambu Probation Case Committee	Kiambu District.
Uasin Gishu County Probation Case Committee	Uasin Gishu District.
Trans Nzoia Probation Case Committee	Trans Nzoia District.
Naivasha Probation Case Committee	Naivasha District.
Laikipia Probation Case Committee	Laikipia District.
Nyeri Probation Case Committee	Nyeri District.

Rules under section 17

PROBATION OF OFFENDERS RULES

[Cap. 79 (1948), Sub. Leg. G.N. 806/1952, L.N. 409/1962.]

1. These Rules may be cited as the Probation of Offenders Rules.
2. It shall be the duty of the principal probation officer—
 - (a) to make such arrangements and to give such directions as may be necessary for the purpose of giving effect to probation orders;
 - (b) to train staff for the Probation Service;
 - (c) to act as secretary to the Central Probation Committee and to advise the Committee on all technical matters relating to the probation system;
 - (d) to act as liaison officer between the Central Probation Committee and the Commissioner of Prisons and any other authority or body concerned with the treatment of juveniles in all matters, and especially in matters relating to probation, approved schools and approved homes;
 - (e) to promote co-operation between the Probation Service and the Police Force and any other voluntary society affording appropriate social services;
 - (f) generally to organise and supervise the Probation Service and to promote the efficient working thereof.
3. It shall be the duty of a probation officer—
 - (a) to make such preliminary inquiries as the court may direct into the antecedents, home surroundings and other circumstances of an accused person;
 - (b) to undertake the supervision of such probationers as may be assigned to his charge;
 - (c) subject to any directions given by the court (whether in the probation order or otherwise), to visit the home of every such probationer and make inquiries as to his conduct, mode of life and employment;
 - (d) to keep in close touch with the probationer and to arrange to meet him at least once a fortnight during the first six months of the period specified in the probation order and thereafter at such intervals as he may deem necessary, having regard to the conduct, mode of life and needs of the probationer;
 - (e) if the probationer is a child attending school, to make periodical inquiries of the principal of the school concerned as to the probationer's attendance, conduct and progress:

Provided that the probationer shall not, unless he is actually residing at the school, be personally interviewed by the probation officer on the school premises;
 - (f) to ensure that the probationer understands the terms and conditions of the probation order, and to endeavour by encouragement, persuasion and warning to secure his observance of them;
 - (g) to advise, assist and befriend the probationer and, where necessary, endeavour to find him suitable employment;
 - (h) if the probationer is under eighteen years of age, to endeavour to secure his association with some suitable youth movement or other welfare organisation;
 - (i) to keep proper and up-to-date records in respect of every probationer for whom he is responsible, including notes of visits and interviews and relevant details as to the conduct and progress of the probationer.

Probation of Offenders

[Subsidiary]

4. (1) A probation officer shall report—

- (a) to the court, in accordance with any directions given by the court in a probation order or otherwise;
- (b) to the appropriate case committee, on the conduct, mode of life and general progress of every probationer placed under his supervision;
- (c) to the court, the principal probation officer and the appropriate case committee upon the failure of a probationer placed under his supervision to observe any of the conditions of the probation order relating to him;
- (d) to the appropriate case committee, upon any case under his supervision in relation to which he receives a request for a report.

(2) The reports of a probation officer under this rule shall be made at such intervals and in such manner as the principal probation officer may direct, and shall not be made in open court or otherwise published.

5. (1) When the supervision of a probationer is transferred from a probation officer attached to one area or part of an area to the probation officer of some other area or part of an area, the record relating to the probationer shall be forwarded to the probation officer of that other area or part of an area, and all subsequent particulars and reports relating to the probationer shall be filed at the office of the probation officer to whose supervision the probationer has been transferred.

(2) While any such probation order remains in force, the probation officer attached to the area or part of an area wherein the court is situated may, from time to time, call upon the probation officer to whose supervision the probationer has been transferred for a report as to the progress and general mode of life of the probationer, and the probation officer upon receiving that report shall convey the substance thereof to the appropriate case committee.

6. A probation officer shall not wear any uniform or badge distinctive of his office.

PROBATION OF OFFENDERS (INSTITUTIONS) RULES

[G.N. 1887/1953, G.N. 573/1954, L.N. 367/1958, L.N. 10/1961.]

1. These Rules may be cited as the Probation of Offenders (Institutions) Rules.
2. The premises specified in the Schedule shall be institutions for the purposes of the Act.

SCHEDULE

[Rule 2.]

1. The premises known as the Probation Hostel, Likoni, Coast Province.
 2. The premises known as the Probation Hostel, Nakuru.
 3. Houses Nos. 543 to 548 inclusive, of the Mbotela African Housing Estate, Nairobi.
 4. Four rooms, Block No. 127, Bondeni, Estate III, Nakuru.
 5. British Legion Hall, Kericho.
 6. Plot No. 9, Housing Estate, Section XII, off Kakamega Road, Kisumu.
 7. Numbers 95 and 96, Block "F", Macharia Estate, Eldoret West, Eldoret.
 8. Plot 102, Section 1, Mainland South, Mombasa.
 9. The premises situated adjacent to the Jogoo Road Police Station, Kaloleni, known as the Nairobi Probation Hostel.
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