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THE PROBATION OF OFFENDERS ACT, 1958

Reformation Instead of Punishment

ACT NO. 20 OF 1958 | [16th May, 1958]



SECTIONS COVERED

1, 2, 3, 4 & 6



WE COVER



**OBJECT OF
THE ACT**



**ADMONITION
(SEC. 3)**



**PROBATION OF
GOOD CONDUCT
(SEC. 4)**



**SUPERVISION
ORDER**



**PROTECTION OF
YOUNG OFFENDERS
(SEC. 6)**

“

The aim is not merely to affect retribution, but also to secure the **reformation of the offender.**

”



**CONCEPT BASED
LEARNING**



**EXAM
FOCUSED**



**MCQ & MAINS
READY**



**JUDICIARY
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WHY THIS ACT EXISTS?

A shift from punishment to reformation.

TRADITIONAL APPROACH



CRIME



PUNISHMENT



PRISON



SOCIAL
ISOLATION



PROBATION APPROACH



REFORMATION
FOCUSED



SECOND
CHANCE



SOCIAL
REINTEGRATION



RESPONSIBLE
CITIZEN



Punishment alone does not guarantee reformation of the offender.



Reforming the offender protects society better than mere punishment.

THE PURPOSE OF THE ACT



To release certain offenders on probation or after due admonition.



To reform and rehabilitate offenders instead of sending them to prison.



To promote social welfare and create responsible citizens.



To give courts the power to adopt a humane and reformative approach.



To balance the interests of the offender and the society.

“

The law looks not only at the **crime**, but also at the **criminal**.

”



KEY TAKEAWAY:

The Act empowers courts to choose **reformation** over retribution, ensuring a **better future** for the offender and society.



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★ MAJOR SUBJECTS

	IPC	4 TESTS
	BNS	4 TESTS
	IPC AND BNS COMPARATIVE TEST	1 TEST
	IEA	1 TEST
	BSA	1 TEST
	IEA AND BSA COMPARATIVE TEST	1 TEST
	CrPC	5 TESTS
	BNSS	5 TESTS
	CrPC AND BNSS COMPARATIVE TEST	1 TEST

TOTAL MAJOR SUBJECT TESTS

23 TESTS

★ MINOR SUBJECTS

	JJ Act, 2015	1 TEST
	Arms Act, 1959	1 TEST
	Sc ST Act, 1989	1 TEST
	Rajasthan Excise Act, 1950	1 TEST
	Probation of Offenders Act, 1958	1 TEST
	Protection of Children from Sexual Offences (POCSO) Act, 2012	1 TEST
	Rajasthan Public Examination Act (1992+2022)	1 TEST

TOTAL MINOR SUBJECT TESTS

7 TESTS



**COMPLETE APO TEST
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5 TESTS



**ONLINE &
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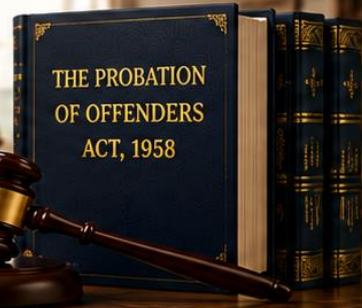


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SECTIONS 1 & 2

INTRODUCTION & DEFINITIONS



ACT NO.
20 OF 1958



PRESIDENT ASSENT
16th May, 1958



SECTION 1



SHORT TITLE

This Act may be called the
Probation of Offenders Act, 1958.



EXTENT

It extends to the **whole of India.**



COMMENCEMENT

It shall come into force in a State on such date as the State Government may, by notification in the **Official Gazette**, appoint, and different dates may be appointed for different parts of the State.



MEMORY FORMULA

PO = Probation Officer



EXAM TRAP

Definitions are frequently asked in Prelims & Mains.



SECTION 2

DEFINITIONS

In this Act, unless the context otherwise requires,—

(a)



“Code” means the Code of Criminal Procedure, 1898 (5 of 1898).

(b)



“probation officer” means an officer appointed to be a probation officer or recognised as such under section 13.

(c)



“prescribed” means prescribed by rules made under this Act.

(d)



Words and expressions used but not defined in this Act and defined in the **Code of Criminal Procedure, 1898 (5 of 1898)**, shall have the meanings respectively assigned to them in that Code.



“

The Act lays the foundation for **reformation** of offenders through **judicial discretion** and structured supervision.

”



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SECTION 3

RELEASE AFTER ADMONITION

Power of Court to release certain offenders after *admonition*.



WHEN CAN COURT RELEASE AFTER ADMONITION?



Person is found **guilty** of an offence



Offence punishable under
(See List)



No **previous conviction** is proved against him



Court is of **opinion** that, having regard to:

- Circumstances of the case
- Nature of the offence
- Character of the offender



Court may release him after due **admonition**.

ELIGIBLE OFFENCES

Specified offences under IPC

- Section 379 – Theft
- Section 380 – Theft in dwelling house
- Section 381 – Theft by clerk or servant
- Section 404 – Dishonest misappropriation of property
- Section 420 – Cheating



Any other offence punishable with



Imprisonment for not more than 2 years



Fine



Both

IMPORTANT NOTES



The court has discretion – not a right of the offender.

CORRESPONDING PROVISIONS IN BNS, 2023

IPC, 1860

Section 379 – Theft
Section 380 – Theft in dwelling house
Section 381 – Theft by clerk or servant
Section 404 – Dishonest misappropriation of property
Section 420 – Cheating

BNS, 2023 (Corresponding Section)

Section 303 – Theft
Section 305 – Theft in dwelling house
Section 306 – Theft by clerk or servant
Section 316 – Criminal breach of trust
Section 318 – Cheating



EXPLANATION

For the purposes of this section, **previous conviction** against a person shall include any previous order made against him under this section or section 4.



PURPOSE BEHIND SECTION 3

To give a **second chance** for minor offences where the offender is likely to reform without the need of formal probation or punishment.



MEMORY TRICK

"379–380–381–404–420"
Remember these 5 sections of IPC!



EXAM TRAP

Admonition ≠ Probation.
It is a release without imposing any conditions of good conduct.



The court looks at the offender's **future**, not just the offence of the past.



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SECTION 4(1)

RELEASE ON PROBATION OF GOOD CONDUCT

When any person is found guilty of an offence, the Court may release him on *probation of good conduct*.



THE COURT'S DECISION PATH

PERSON FOUND GUILTY
OF AN OFFENCE

Is the offence punishable with
DEATH or **IMPRISONMENT
FOR LIFE?**

YES

Section 4 does
NOT apply.
Probation cannot
be granted.

NO

COURT FORMS OPINION

Having regard to:

- ✓ Circumstances of the case
- ✓ Nature of the offence
- ✓ Character of the offender

Court may, instead
of sentencing him
at once to any
punishment,
release him on
**PROBATION OF
GOOD CONDUCT.**



WHAT DOES PROBATION MEAN?

Court releases the offender on his
entering into a **bond**:



With or without
sureties



To appear and receive
sentence when called
upon during such period,
not exceeding **3 years**,



And in the meantime to
KEEP THE PEACE and
BE OF GOOD BEHAVIOUR.



KEY CONDITIONS (SECTION 4(1))

- ✓ Offence must **not** be punishable with death or imprisonment for life.
- ✓ Court must form an opinion that it is **expedient** to release on probation.
- ✓ Release is by executing a **bond** with or without sureties.
- ✓ Maximum period of probation: **3 years**.
- ✓ Obligations: Appear when called + Keep peace + Good behaviour.



SUB-SECTION

(1)

ACT NO.

20 OF 1958

PRESIDENT ASSENT

16TH MAY, 1958



PROVISO TO SECTION 4(1)



The Court shall **not** direct such release unless it is satisfied that the offender or his surety, if any, has a **fixed place of abode** or **regular occupation** in the place over which the Court exercises jurisdiction or in which the offender is **likely to live** during the period for which he enters into the bond.



MEMORY FORMULA

B – P – G – 3

Bond – Peace – Good Behaviour – 3 Years



EXAM TRAP

Section 4 applies **even** to offences punishable with imprisonment for **more than two years**, provided they are **not punishable with death or imprisonment for life**.



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SECTION 4(1) – CONTINUED

BOND & CONDITIONS OF PROBATION

Instead of immediate sentence, the Court releases the offender on executing a **bond** with or without **sureties**, subject to conditions.



EXECUTION OF BOND

COURT ORDERS RELEASE ON PROBATION

OFFENDER TO ENTER INTO A BOND



WITH SURETIES



WITHOUT SURETIES



To **appear** and **receive sentence** when called upon during such period.



In the meantime to **KEEP THE PEACE**.



And **BE OF GOOD BEHAVIOUR**.



For such period, **NOT EXCEEDING THREE YEARS**, as the Court may direct.



PROVISO TO SECTION 4(1)

The Court shall not direct such release unless it is satisfied that the offender or his surety, if any, has:



A FIXED
PLACE OF
ABODE

OR



REGULAR
OCCUPATION



in the place over which the Court exercises jurisdiction or in which the offender is **likely to live** during the period for which he enters into the bond.



KEY HIGHLIGHTS

- ✓ **Bond** is the foundation of probation.
- ✓ **Sureties** may or may not be required.
- ✓ Court has discretion to decide the period (up to **3 years**).
- ✓ Core obligations: **Appear when called + Keep peace + Good behaviour**.
- ✓ Proviso safeguards the Court that the offender is **rooted within the jurisdiction**.



MEMORY FORMULA

B – P – G – 3

Bond – Peace – Good Behaviour – 3 Years

SUB-SECTION

(1)

ACT NO.

20 OF 1958

PRESIDENT ASSENT

16TH MAY, 1958



EXAM TRAP

Section 4 applies to all offences **not punishable with death or life imprisonment**, even if the maximum punishment is more than **two years**.



MAINS ANSWER TIP

Always mention the three core conditions (**Appear when called, Keep peace, Good behaviour**) and the maximum period (3 years).

“

Probation is not escape from law, but an opportunity to reform.



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SECTION 4(2)

PROBATION OFFICER'S REPORT

Before granting probation, the Court *shall* take into consideration the *report (if any)* of the Probation Officer in relation to the case.



THE PROCESS UNDER SECTION 4(2)

1. BEFORE ORDER



Before making any order under Section 4(1), the Court shall take into consideration the *report (if any)* of the Probation Officer.

2. PROBATION OFFICER



Probation Officer investigates and submits a report in relation to the case.

3. CONTENT OF REPORT



- Personal history of offender
- Character & conduct
- Family background
- Circumstances of the offence
- Prospects of reform
- Any other relevant facts

4. COURT CONSIDERS



Court shall take into consideration the *report (if any)* before deciding whether to grant probation under Section 4(1).

5. THEN ORDER



After considering the report and other relevant factors, the Court may pass order of probation.

KEY POINTS

- ✓ The Court is *not bound* by the report, but shall consider it.
- ✓ Report is *not mandatory* in every case – the words “*if any*” give discretion.
- ✓ Report assists the Court in assessing the *suitability* of the offender for *reformation*.
- ✓ Probation Officer acts as the *eyes and ears* of the Court.
- ✓ *Judicial satisfaction* is essential even after considering the *report*.



WHY THIS REPORT IS IMPORTANT?

- Helps Court to know the real background of the offender.
- Assists in deciding whether the offender can be reformed.
- Ensures individualised and *reformative approach* of justice.



EXAM TRAP

- Report is “*if any*”, *not “shall”* – Court is not bound to call for report in every case.
- Even without report, Court can grant probation if otherwise satisfied under Section 4(1).



MAINS ANSWER TIP

Always mention that under Section 4(2), the Court “*shall take into consideration*” the report (if any) of the Probation Officer before making any order under Section 4(1).

SUB-SECTION

(2)

ACT NO.

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PRESIDENT ASSENT

16TH MAY, 1958



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SECTIONS 4(3) & 4(4)

SUPERVISION ORDER & CONDITIONS

In addition to releasing the offender on probation, the Court may pass a **supervision order** and impose necessary **conditions** to ensure reformation and protect the public.



SECTION 4(3)

SUPERVISION ORDER BY COURT

Court may, if it is of opinion that in the **interests of the offender and of the public** it is expedient so to do, in addition pass a supervision order.



Court



Supervision Order



Probation Officer



For such period, not less than 1 year

KEY ELEMENTS

- ✓ Order is passed in addition to granting probation under Section 4(1).
- ✓ Court must be of opinion that it is **expedient** in the interests of the offender and of the public.
- ✓ Offender shall remain under the supervision of a Probation Officer named in the order.
- ✓ Period of supervision: **not less than 1 year**, as may be specified in the order.
- ✓ Court may impose such conditions as it deems **necessary** for due supervision of the offender.

SECTION 4(4)

BOND & CONDITIONS UNDER SUPERVISION ORDER

Court shall require the offender, **before release**, to enter into a **bond**, with or without sureties, to observe the conditions specified.



Residence

Conditions relating to place of residence.



Abstention from Intoxicants

May be directed to abstain from alcohol or other intoxicants.

BOND BY OFFENDER
(With or Without Sureties)



Other Conditions

Any other condition regarding behaviour, conduct or activity.



Prevent Repetition of Offence

To prevent repetition of the same offence or commission of other offences.



These conditions are meant to **reform** the offender and **safeguard society** from future offending.



KEY HIGHLIGHTS

- ✓ Supervision Order is optional but in addition to probation.
- ✓ Minimum period of supervision is 1 year.
- ✓ Court has wide discretion to impose **necessary & appropriate** conditions.
- ✓ Conditions must be reasonable and related to reformation and public protection.

SUB-SECTIONS

(3)

(4)

→ ACT NO. 20 OF 1958



EXAM TRAP

- Supervision Order is not automatic. It requires Court's judicial opinion that it is **expedient in the interests of the offender and of the public**.
- Minimum period of supervision is **1 year**, not less.



MAINS ANSWER TIP

While answering, always mention that supervision order is **in addition** to probation, specify minimum period (1 year), and highlight that conditions aim at **reformation + prevention** of future offences.



MEMORY FORMULA

S - B - C - P

Supervision - Bond - Conditions - Prevention

“ The objective is not punishment, but **reformation**. ”



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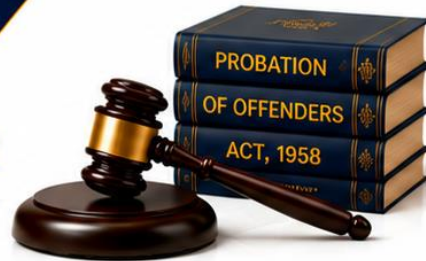
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SECTION 4(5)

COMMUNICATION OF SUPERVISION ORDER

The Court must ensure that the offender *understands* and *receives* the supervision order with its terms and conditions.



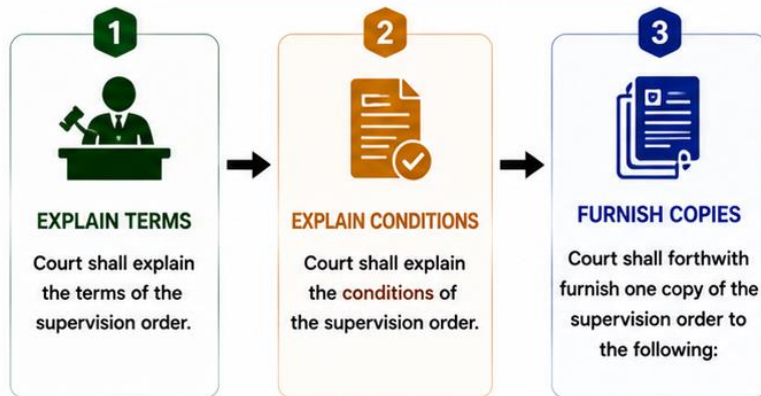
SUB-SECTION

(5)

ACT NO.
20 OF 1958

PRESIDENT ASSENT
16TH MAY, 1958

DUTIES OF THE COURT UNDER SECTION 4(5)



COPIES TO BE FURNISHED TO



Offender

The person who is placed under supervision.



Sureties, if any

Any person who has stood surety in the bond.



Probation Officer Concerned

The Probation Officer who will supervise the offender.



KEY HIGHLIGHTS

- ✓ Communication ensures that the offender is **aware** of his obligations.
- ✓ Copies must be furnished "**forthwith**" – delay is not permitted.
- ✓ This promotes **transparency**, **accountability** and proper supervision.
- ✓ Non-compliance may affect the **validity** and **enforcement** of the supervision order.



EXAM TRAP

- Court's duty does not end with passing the supervision order.
- Communication (explanation + furnishing copies) is **mandatory**.



MAINS ANSWER TIP

Always mention that Court must explain the **terms**, explain the **conditions** and furnish copies to offender, sureties (if any) and the Probation Officer concerned **forthwith**.



MEMORY FORMULA

E – E – F – 3

Explain – Explain – Furnish – Three Recipients



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SECTION 5

SECTION 3 vs SECTION 4

Two Different Reliefs – Different Conditions, Same Purpose: Reformation



BASIS	SECTION 3 – RELEASE AFTER ADMONITION	SECTION 4 – RELEASE ON PROBATION OF GOOD CONDUCT
Nature of Relief	Release after due admonition .	Release on probation of good conduct .
Eligible Offences	IPC: 379, 380, 381, 404, 420 or any other offence punishable with imprisonment not more than 2 years, or fine, or both.	Any offence (not punishable with death or imprisonment for life).
Previous Conviction	No previous conviction proved.	No specific bar of previous conviction.
Court's Opinion	Court must be of opinion that, having regard to circumstances (nature of offence, character of offender), it is expedient so to do.	Court must be of opinion that, having regard to circumstances (nature of offence, character of offender), it is expedient to release on probation.
Bond & Sureties	No bond, no sureties.	Bond mandatory , with or without sureties.
Conditions	No conditions imposed.	To appear & receive sentence when called upon, keep peace & be of good behaviour .
Period	No period of probation.	Period not exceeding 3 years .
Supervision Order	Not applicable.	Court may pass supervision order (Section 4(3)).
Effect	Offender released; no conviction recorded for future disqualification (Explanation).	Offender released on conditions; failure may lead to cancellation & sentence.

KEY DISTINCTION



Section 3 is a simple release **without conditions**.

Section 4 is a **conditional release** with bond, behaviour & possible supervision.



EXAM TAKEAWAY

Admonition is a one-time warning; Probation is a conditional second chance.

MEMORY TIP



A – Admonition (Section 3) → **Advice & Free**

P – Probation (Section 4) → **Promise & Follow Conditions**



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Lakhvir Singh vs State of Punjab (2021)

The benefit of probation is not excluded by the provision of the mandatory minimum sentence prescribed for offence under IPC. If the law has been enacted after 1958 (after Probation of Offender Act) and penal provision doesn't contain non obstante clause, then accused may be released on probation.

State of Maharashtra vs Natverlal (1980)

In case of gold smuggling, the Supreme Court has declined to accord to the accused found guilty, the benefit of Probation of Offenders Act because smuggling of gold not only affects public revenue and public economy, but often escapes detection.

State of Rajasthan vs Sri Chand (2015)

Benefit of probation can't be extended to accused involved in crime against women

State of Gujarat vs V.V. Chauhan

Section 4 will not apply to anti-corruption case.

Dalbir Singh vs State of Haryana

Section 4 will not apply to cases under section 304A IPC

Vajju Srinivasu alias Srinu vs State of Andhra Pradesh (2002)

Section 4 will not apply to cases under NDPS Act.

Devki alias Kala vs State of Haryana (1979)

Section 4 will not apply to cases related to kidnapping & abduction.



SECTION 6(1)

SPECIAL PROTECTION TO OFFENDERS BELOW 21 YEARS

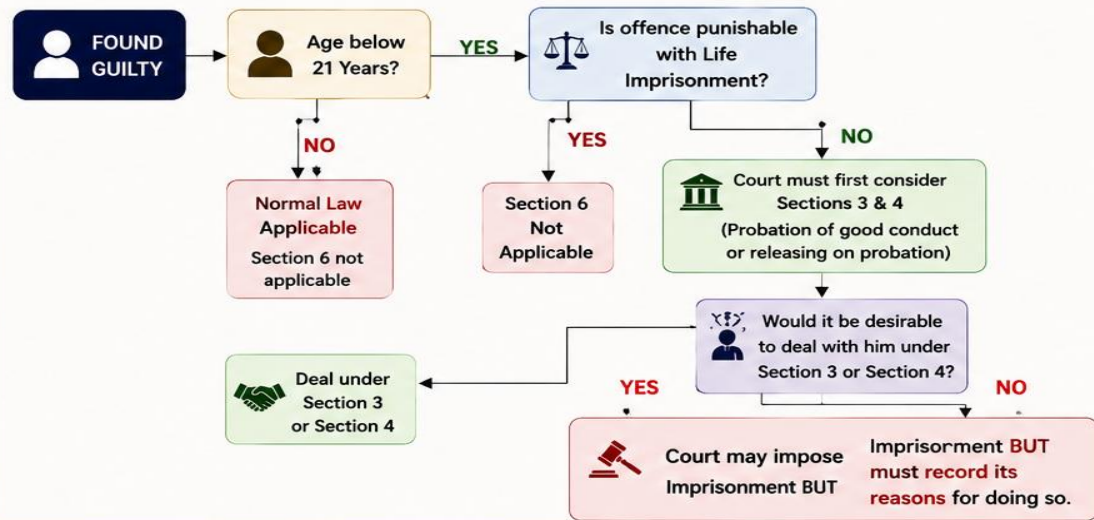


SUB-SECTION
(1)

When a person **under 21 years** is found guilty of an offence punishable with imprisonment (but **not with imprisonment for life**), the Court **shall not** sentence him to imprisonment **unless** it is satisfied that it would not be desirable to deal with him under **Section 3** or **Section 4**.


**ACT NO.
20 OF 1958**
**THE PROBATION
OF OFFENDERS
ACT, 1958**

JUDICIAL DECISION FRAMEWORK UNDER SECTION 6(1)



KEY CONDITIONS

- ✓ Offender must be **under 21 years** of age.
- ✓ Offence must be punishable with imprisonment (but **not with imprisonment for life**).
- ✓ Court **shall not** sentence to imprisonment unless satisfied.
- ✓ Court must first consider **Sections 3 or 4**.
- ✓ If imprisonment is imposed, **reasons must be recorded** in writing.

MEMORY FORMULA

U21

Under 21

P

Probation First
(Sections 3 or 4)

R

Reasons
Mandatory



EXAM TRAP

Section 6 **does not prohibit** imprisonment. It only makes imprisonment the **LAST OPTION**.



KEY TAKEAWAY

For offenders below 21 years, the law gives preference to **REFORMATION** over **PUNISHMENT**.

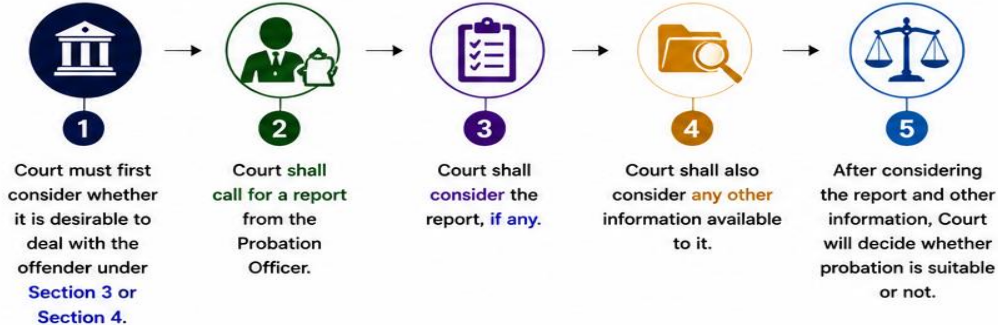
SECTION 6(2)

MANDATORY PROBATION OFFICER'S REPORT BEFORE DECIDING IMPRISONMENT



For the purpose of satisfying itself whether it would not be desirable to deal under Section 3 or Section 4 with an offender referred to in sub-section (1),
the Court **shall call for a report** from the Probation Officer and **consider the report, if any**,
and any other information available to it relating to the **character** and **physical** and **mental** condition of the offender.

MANDATORY STEPS FOR THE COURT



REPORT MUST COVER

- 1. CHARACTER**
Behaviour, conduct, habits, moral attributes of the offender.
- 2. PHYSICAL CONDITION**
Health, physical abilities, any disability, etc.
- 3. MENTAL CONDITION**
Mental stability, intelligence level, emotional state, any disorder, etc.

★ These factors help the Court in determining whether imprisonment is necessary or probation can achieve **reformation**.

COURT SHALL

- ✓ Call for the report (mandatory).
- ✓ Consider the report (if any).
- ✓ Consider **other information** available.

IMPORTANT HIGHLIGHT

💡 Unlike Section 4(2), **Section 6(2)** uses **"shall call for a report"**, making the report of the Probation Officer **MANDATORY** before deciding imprisonment.

MEMORY FORMULA

C - P - M
Character - Physical - Mental

⚠️ EXAM TRAP

- Students often confuse Section 4(2) and Section 6(2). Remember:
- Section 4(2): Court shall take into consideration the report, **if any**.
 - Section 6(2): Court **shall call for** the report. Report is compulsory.

Ramji Missar vs State of Bihar (1963)

The question of age of person is relevant not for the purpose of determining his guilt but only for the purpose of punishment and benefit of provisions of Probation of Offenders Act, 1958. Therefore, if the court finds out that offender was not under 21 years of age on the date of passing sentence, then section 6(1) will not apply.

Lakhvir Singh vs State of Punjab (2021)

Section 6 as per its own title has provided for restriction on imprisonment of offenders under 21 years of age. Thus, it is a mandatory in nature and acts as an injunction for courts to follow if all the conditions of section 6 are fulfilled. The words 'court must not sentence' directly indicate that it is mandatorily subject to other condition.