

COMMUNITY SERVICE ORDERS ACT

CHAPTER 13:06

Act
19 of 1997

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CHAPTER 13:06

COMMUNITY SERVICE ORDERS ACT

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CHAPTER 13:06

COMMUNITY SERVICE ORDERS ACT

19 of 1997. **An Act to make provision for the making of community service orders in respect of convicted persons; to make provisions for the making of combination orders; and for matters incidental thereto.**

Commencement. [1ST JUNE 1998]
168/1998.

Short title. **1.** This Act may be cited as the Community Service Orders Act.

Interpretation. **2.** In this Act—
“combination order” means an order made under section 24;
“Court” does not include a Court martial;
“Minister” means the Minister to whom responsibility for social development has been assigned;
“probation officer” means a welfare officer (probation) appointed under section 18 of the Probation of Offenders Act.

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Community service order in respect of convicted persons. **3.** (1) Where a person of or over sixteen years of age is convicted of an offence (in this Act referred to as “the offender”) and is to be sentenced for a period of imprisonment of twelve months or less, including a sentence of imprisonment imposed in default of payment of a fine, the Court by or before which he is to be sentenced may pass the sentence but may order the operation of the whole or part of the sentence to be suspended for a period not exceeding two years and may then make a community service order requiring him to perform unpaid work in accordance with the provisions of this Act.

(2) As offence referred to in subsection (1) shall be construed without regard to any prohibition or restriction imposed by or under any other enactment on the imprisonment or detention of young offenders.

(3) This Act shall not apply to a person convicted of an offence or an attempt to commit an offence listed in the Schedule to this Act. Schedule.

4. The number of hours which a person may be required to work under a community service order shall be specified in the order and shall be the aggregate of not less than forty hours and not more than two hundred and forty hours as may be specified in the order. Number of hours of work specified in order.

5. Where a Court makes community service orders in respect of two or more offences of which the offender has been convicted, the Court may direct that the hours of work specified in any of those orders shall be concurrent with or in addition to those specified in any other of those orders, but that the total number of hours which are to run consecutively shall not exceed the maximum specified in section 4. Concurrent and consecutive orders.

6. A Court shall not make a community service order under this Act unless the offender consents, and the Court is satisfied—
(a) after considering a report by a probation officer about the offender and his circumstances and, if the Court thinks it necessary, hearing the probation officer, that the offender is a suitable person to perform work under such an order; and
(b) suitable arrangements can be made for him to do so. Consent of offender and probation officer's report.

7. (1) The magisterial district in which the offender resides or will reside shall be specified in the community service order. Magisterial districts specified.

(2) The functions conferred on a probation officer shall be discharged by the probation officer appointed for or assigned to the magisterial district specified in the order.

8. The Chief Probation Officer may appoint persons to assist probation officers in the discharge of duties under this Act. Appointment of persons to assist probation officers.

9. Before making a community service order the Court shall explain to the offender in ordinary language— Explanation of order to offender.

- (a) the purpose, effect and requirements of the order;
- (b) the consequences which may follow if he fails to comply with any of the requirements of this Act; and

(c) that the Court has the power under section 20 to review the order on the application of either the probation officer or the offender.

Offender and probation officer to be given copies of order.

10. (1) The Court upon making a community service order shall forthwith give copies of the order to the probation officer and to the offender.

(2) The Court shall, except where it is itself the Magistrate's Court acting for the magisterial district specified in the order, send to the Clerk of the Peace for the magisterial district specified in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to the Court of the magisterial district to which the order has been sent in the exercise of the Court's functions in relation to the order.

Obligations of persons subject to order.

11. (1) An offender against whom a community service order is in force shall—

- (a) report to a probation officer in accordance with such instructions as he may be given by the probation officer and notify the officer of any change of address; and
- (b) perform for the number of hours specified in the order such work specified in the order at such times as he may be instructed by the probation officer.

(2) The instructions given by the probation officer shall, so far as practicable, be such as to avoid conflict with the offender's religious beliefs, and any interference with the times, if any, at which he normally works or attends an educational institution.

Work to be performed within twelve months.

12. Subject to section 23 the work required to be performed under a community service order shall be performed during the twelve-month period which shall begin at the date of the order, however, unless revoked, the order shall remain in force until the offender has worked for the number of hours specified in it.

Breach of requirements of order.

13. (1) If at any time while a community service order is in force against an offender it appears on information provided by the Chief Probation Officer to a magistrate for the magisterial

district in which the order was made that the offender has failed to comply with any of the requirements of the order, the magistrate may—

- (a) issue a summons requiring the offender to appear at the place and time specified in the summons; or
- (b) if the information is on oath, issue a warrant for his arrest.

(2) Any summons or warrant issued under this section shall direct the offender to appear or be brought before the relevant Court.

14. (1) If it is proved to the satisfaction of the Court before which an offender appears or is brought under section 13(2) that he had failed without reasonable excuse to comply with any of the requirements of the community service order, the Court may—

- (a) without prejudice to the continuance of the order, impose on him a fine not exceeding five hundred dollars;
- (b) without prejudice to the continuance of the existing order and subject to section 18 make an additional order against him;
- (c) where the order was made by a Magistrate's Court, revoke the order and enforce the term of imprisonment suspended under section 3(1);
- (d) where the order was made by the High Court and the Magistrate's Court has the power to deal with the offender under paragraphs (a) and (b), the Magistrate's Court may instead commit him to custody or release him on bail until he can be brought or appear before the High Court.

Power of Magistrate's Court where offender fails to comply with requirements of order.

(2) Where a Magistrate's Court deals with an offender's case under subsection (1)(d) it shall send to the High Court—

- (a) a certificate signed by the magistrate certifying that the offender has failed to comply with the requirements of the order and specifying the manner in which he has failed to do so; and
- (b) such other particulars of the case as may be desirable.

(3) A certificate purporting to be signed by a magistrate under this section shall be admissible before the High Court as evidence of the failure of the offender to comply with the requirements of the order without further proof.

Power of High Court where offender fails to comply with requirements of order.

15. (1) Where by virtue of section 14(1)(d) an offender is brought or appears before the High Court and it is proved to the satisfaction of the Court that he has failed to comply with the requirements of the community service order, the Court may—

- (a) without prejudice to the order, impose on him a fine not exceeding one thousand dollars;
- (b) without prejudice to the continuance of the existing order and subject to section 16, make an additional order in respect of him; or
- (c) revoke the existing order and enforce the term of imprisonment suspended under section 3(1).

(2) In proceedings before the High Court under this section any question as to whether the offender has failed to comply with the requirements of the order shall be determined by the Court and not by verdict of a jury.

Fines adjudged to be paid on conviction.

16. A fine imposed under section 14(1)(a) or 15(1)(a) shall be deemed for the purposes of any enactment to be a sum adjudged to be paid on conviction.

Hours of work specified in orders made for failure to comply.

17. The number of hours which an offender may be required to work under a community service order made under section 14(1)(b) or 15(1)(b) shall—

- (a) be specified in the order and shall not exceed sixty in the aggregate; and
- (b) be such that the total number of hours under both orders does not exceed the maximum of two hundred and forty.

Conviction for further offences not to be treated as failure to comply with order.

18. Without prejudice to sections 18 and 19 an offender who is convicted of a further offence while a community service order is in force with respect to him shall not on that account be liable to be dealt with under section 14 or 15 as though he had failed to comply with any of the requirements of the order.

19. Where an offender in respect of whom a community service order is in force is either convicted of an offence before the High Court or who by virtue of section 20(2) is brought or appears before it and it is in the interest of justice having regard to the circumstances which have arisen since the making of the order, the High Court may—

Variation or revocation by High Court.

- (a) vary or revoke the order; or
- (b) revoke the order and deal with the offender for the offence in respect of which the order was made in any manner in which it could deal with him if he had just been convicted by that Court of that offence.

20. (1) Where there is a community service order against an offender, either the offender or the probation officer may apply to the relevant Court to have the order varied or revoked on the ground that having regard to the circumstances which have arisen since the making of the order the interest of justice would be served by so doing.

Variation or revocation by Magistrate's Court.

(2) Upon an application made under subsection (1) the Court may make such an order as the High Court is empowered to by section 19 save that where the existing order was made by the High Court, the Court may commit the offender to custody or release him on bail until he can be brought or appear before the High Court.

(3) Where a Magistrate's Court proposes to exercise its power under this section upon the application of the probation officer it shall summon the offender to appear before it and if he fails to appear in answer to the summons may issue a warrant for his arrest.

21. (1) Where an offender in respect of whom a community service order is in force is convicted of an offence before a Magistrate's Court other than the Court acting for the magisterial district in which the order was made and that Court imposes a custodial sentence, it may, on the application of either the offender or the probation officer, where it appears to be in the interest of

Revocation following custodial sentence.

justice to do so having regard to any circumstances which have arisen since the making of the order—

- (a) if the order was made by a Magistrates' Court, revoke it; or
- (b) if the order was made by the High Court, commit the offender to custody or release him on bail until he can be brought or appear before the High Court.

(2) Where by virtue of subsection (1)(b) an offender is brought or appears before the High Court it may revoke the order if it appears to be in the interest of justice to do so, having regard to any circumstances which have arisen since the order was made.

Amendment of order by reason of change of residence.

22. (1) A Magistrate's Court acting for the magisterial district in which a community service order is made, may, upon the application of a probation officer amend the order by substituting another magisterial district for the district specified in the order, where the Court is satisfied that the offender has changed or proposes to change his residence from the original magisterial district to another magisterial district.

(2) No application may be made under subsection (1) while an appeal against an order is pending.

(3) Where an order is amended under subsection (1), a copy of the amending order and such documents and information relating to the case as are considered likely to assist the Court in respect of its functions relative to the amending order shall be sent to the Clerk of the Peace for the magisterial district specified in the amending order.

Extension of order.

23. A Magistrate's Court acting for the magisterial district in which a community service order has been made may—

- (a) on the application of either the offender or the probation officer;
- (b) if it appears to the Court to be in the interest of justice having regard to circumstances arising since the original order was made,

extend the twelve-month period for the performance of work as specified in section 11.

24. (1) A Court by or before which an offender is convicted may make a combination order which requires the offender both—

Combination order in respect of offender.

- (a) to be under the supervision of a probation officer for a period specified in the order, being not less than twelve months nor more than three years; and
- (b) to perform unpaid work for a number of hours so specified, being in the aggregate not less than forty nor more than one hundred.

(2) Before making a combination order in respect of an offender the Court must be satisfied that the making of that order is desirable in the interest of—

- (a) securing the rehabilitation of the offender; or
- (b) protecting the public from him or preventing the commission by him of further offences.

(3) Subject to subsection (1) the provisions of the Probation of Offenders Act shall apply in relation to a combination order in so far as it imposes a requirement as is mentioned in paragraph (a) of that subsection, as if it were a probation order.

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(4) Subject to subsection (1) the provisions of this Act with respect to a community service order shall apply in respect of a combination order in so far as it imposes such a requirement as is mentioned in paragraph (b) of that subsection, as if it were a community service order.

25. (1) Where the probation officer under whose supervision the offender is placed, is satisfied that the offender has complied with the requirements imposed on him pursuant to section 11, the probation officer shall submit a report to that effect to—

Record of completion of community service.

- (a) in the case of the High Court, the Registrar; or
- (b) in the case of the Magistrate's Court, the Magistrate.

(2) Upon receiving the report under subsection (1), the Registrar or Magistrate as the case may be, shall record that the requirements of the community service order have been complied with and shall so notify the offender.

Nullification of conviction.

26. (1) Where an offender who has no previous conviction receives notification of his fulfilment of the requirements of the community service order enforced against him, the Court may, upon application by the offender, make an order declaring the record of conviction against him null and void.

(2) Subsection (1) shall not apply to an offender in respect of whom an order under subsection (1) has already been made.

Regulations.

27. (1) The Minister shall subject to the affirmative resolution of Parliament make Regulations for the performance of work under a community service order, for arrangements for a person to perform such work, and for carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) the Minister shall also make Regulations to—

- (a) limit the number of hours of work to be done by a person under an order in any one day;
- (b) make provision for the calculation of time worked under an order;
- (c) make provision for the payment of travel and other expenses in connection with the performance of work under an order;
- (d) provide for records to be kept of the work done by any person under an order; and
- (e) provide for the appointment of persons to assist probation officers in the exercise of duties under this Act.

Schedule amended by Order.

28. The Minister may by Order amend the Schedule.

SCHEDULE

(Section 3).

**OFFENCES FOR WHICH COMMUNITY SERVICE
IS NOT AVAILABLE AS A PENALTY**

- (i) Murder
- (ii) Manslaughter
- (iii) Treason
- (iv) Sedition
- (v) Piracy or hijacking
- (vi) Possession or use of firearms and ammunition with intent to injure
- (vii) Aggravated assault
- (viii) Possession of imitation firearms in pursuance of any criminal offence
- (ix) Shooting or wounding with intent to do grievous bodily harm
- (x) Robbery
- (xi) Robbery with aggravation
- (xii) Armed robbery
- (xiii) Arson
- (xiv) Any sexual offence
- (xv) Any drug trafficking offence
- (xvi) Kidnapping

SUBSIDIARY LEGISLATION

COMMUNITY SERVICE REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

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14. Appointment of volunteers.

SCHEDULE.

COMMUNITY SERVICE REGULATIONS

138/2000.

made under section 27(1)

1. These Regulations may be cited as the Community Service Regulations. Citation.

2. In these Regulations— Interpretation.

“Act” means the Community Service Orders Act;

“offender” means a person to whom section 3 of the Act applies;

“officer” means a welfare officer (probation) appointed under section 18 of the Probation of Offenders Act or a person appointed under section 8 of the Act; Ch. 13:51.

“Order” means a Community Service Order made under section 3 of the Act;

“working day” means any day other than a Saturday, Sunday or public holiday.

3. An officer shall provide an offender with information regarding— Information for offenders.

(a) the nature of work to be performed under the Order;

(b) the obligations of the offender under the Order;

(c) action to be taken if the offender fails to comply with the Order; and

(d) any other matters relevant to the Order.

4. The Chief Probation Officer shall maintain a list of organisations, groups, government departments or other institutions which require tasks to be done under an Order and shall assign offenders accordingly. Selection of work.

5. (1) An organisation, group, government department or other institution may apply to the Chief Probation Officer for an offender to be assigned to perform tasks under an Order. Application for work.

(2) The application under paragraph (1) shall contain particulars of any aspect of the way in which the applicant conducts his undertaking as might affect the health and safety of an offender.

(3) Upon approval of the application under paragraph (1), the Chief Probation Officer shall inform the applicant of—

- (a) the nature of the work to be performed;
- (b) the obligations of the applicant;
- (c) action to be taken if the offender fails to comply with the Order; and
- (d) any other matters relevant to the Order.

Officer to keep records.

6. An officer shall keep records pertaining to—

- (a) the hours worked by the offender; and
- (b) the conduct of the offender.

Recording and reporting of time worked. Schedule.

7. (1) Hours worked by an offender shall be recorded by an officer on the Form provided in the Schedule.

(2) An officer shall provide an offender with a copy of the record of hours worked and a report of whether the work and the offender’s conduct was satisfactory.

Only hours worked counted.

8. Only hours worked by an offender shall count towards the satisfaction of the Order.

Maximum hours.

9. No more than twenty-one but no less than five hours of work per week shall be required from an offender.

Commencement of work.

10. (1) An offender shall begin the performance of work under an Order no later than ten working days following the imposition of the Order.

(2) Notwithstanding paragraph (1), where an officer determines that—

- (a) suitable tasks cannot be found for the offender;
- (b) illness or other exceptional circumstances prevent the offender from beginning work,

commencement of work may be delayed.

Reporting to work site.

11. (1) An offender shall report to the designated work site and shall present valid identification and any documentation provided by an officer.

(2) Where an offender is unable to report to the work site due to illness or other circumstances, he shall immediately make an officer aware of his inability to report for work.

(3) An offender who fails to report for work due to illness shall within forty-eight hours provide an officer with a medical certificate from a registered medical practitioner.

12. (1) It shall be the duty of every officer to furnish an offender with a copy of any manual or instructions relating to the health and safety of the offender at the designated work site. Duties regarding health and safety.

(2) An offender who has not been furnished with the manual or instructions under paragraph (1) shall be entitled to request that such manual or instructions be provided to him.

(3) It shall be the duty of every —

(a) offender; and

(b) organisation, group, government department or institution to which an offender has been assigned,

to adhere to any instructions, provided by the officer, regarding the health and safety of the offender at the designated work site.

13. Where the offender is a female the officer shall be a female. Supervision of offender who is a woman or girl.

14. The Chief Probation Officer may appoint persons to serve as volunteers to assist officers in the exercise of their duties under the Act. Appointment of volunteers.

(Regulation 7).

SCHEDULE
MINISTRY OF SOCIAL AND COMMUNITY DEVELOPMENT
PROBATION DIVISION

Community Service Orders Act (Ch. 13:06)

TIME SHEET

Name Date of Order

Address Court.....

Place where work is to be performed Magistrate/Judge

Nature of work to be performed Supervisor

Date	Hours Worked		Work Performed	Total No. of Hours Worked	Total No. of Hours Remaining	If Appointment Failed, State Reason	Signature of Supervisor/Client
	From	To					