Number 23 *of* 1983

CRIMINAL JUSTICE (COMMUNITY SERVICE) ACT, 1983

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Persons to whom Act applies.
3. Community service order.
4. Conditions required for making of community service order.
5. Previsions regarding more than one community service order.
6. Provisions consequential on making of community service order.
7. Requirements under community service order and failure to comply with such requirements.
8. Alternative methods of dealing with offence under *section 7 (4)*.
9. Extension of time for performance of work under community service order.
10. Change of residence by offender.
11. Revocation of community service order.
12. Jurisdiction.
13. Power to summon or order arrest.
14. Regulations.
15. Expenses.
16. Short title and commencement.

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CRIMINAL JUSTICE (COMMUNITY SERVICE) ACT, 1983

AN ACT TO MAKE FURTHER PROVISION FOR DEALING WITH PERSONS CONVICTED OF CERTAIN OFFENCES AND TO PROVIDE FOR CONNECTED MATTERS. [13*th July*, 1983]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

"*community service order*" has the meaning assigned to it by *section 3* ;

"*court*" does not include a Special Criminal Court;

"*district of residence*" has the meaning assigned to it by *section 6* ;

"*the Minister*" means the Minister for Justice;

"*offender*" has the meaning assigned to it by *section 2* ;

"*probation and welfare officer*" means a person appointed by the Minister to be a probation and welfare officer or to be a welfare officer or probation officer;

"*relevant officer*" means a probation and welfare officer discharging functions under this Act.

(2) A reference in this Act to a section is to a section of this Act and a reference to a subsection is to a subsection of the section in which the reference occurs.

Persons to whom Act applies.

2.—This Act applies to a person (in this Act referred to as an "*offender*") who is of or over the age of 16 years and is convicted of an offence for which, in the opinion of the court, the appropriate sentence would but for this Act be one of penal servitude, of imprisonment or of detention in Saint Patrick's Institution, but does not apply where any such sentence is fixed by law.

Community service order.

3.—(1) Subject to *section 4* , the court by or before which an offender is convicted may, instead of dealing with him in any other

way, make, in respect of the offence of which he is convicted, an order (in this Act referred to as a "*community service order*") under this section.

(2) A community service order shall require the offender to perform, in accordance with this Act, unpaid work for such number of hours as are specified in the order and are not less than 40 and not more than 240.

(3) Nothing in this section shall be construed as preventing a court which makes a community service order from making, in relation to the offence in respect of which the order is made, an order under any other enactment for—

(*a*) the revocation of any licence,

(*b*) the imposition of any disqualification or endorsement,

(*c*) the forfeiture, confiscation, seizure, restitution or disposal of any property, or

(*d*) the payment of compensation, costs or expenses.

Conditions required for making of community service order.

4.—(1) A court shall not make a community service order unless the following conditions have been complied with:

(*a*) the court is satisfied, after considering the offender's circumstances and a report about him by a probation and welfare officer (including, if the court thinks it necessary, hearing evidence from such an officer), that the offender is a suitable person to perform work under such an order and that arrangements can be made for him to perform such work, and

(*b*) the offender has consented.

(2) Before making a community service order in respect of an offender the court shall explain to him—

(*a*) the effect of the order and, in particular, the requirements of *sections 7 (1)* and *7 (2)*,

(*b*) the consequences which may follow under *sections 7 (4)* and *8* if he fails to comply with any of those requirements, and

(*c*) that under this Act the District Court may review the order on the application of either the offender or a relevant officer.

Provisions regarding more

5.—(1) Notwithstanding *subsections (2)* and *(3)*, where more

than one community service order.

than one community service order is in force in respect of an offender at any time, the total number of hours which the offender is required to work under such orders shall not exceed 240.

(2) Where a court makes community service orders in respect of two or more offences of which the offender has been convicted by or before 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.

(3) 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 (whether 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.

Provisions consequential on making of community service order.

6.—(1) A community service order shall specify the district court district (in this Act referred to as the "*district of residence*") in which the offender resides or will reside while performing work under the order.

(2) The court by which a community service order is made shall cause certified copies of the order to be sent—

(*a*) to the justice of the District Court assigned to the district of residence, and

(*b*) to a specified relevant officer in the district of residence, who shall give a copy to the offender.

Requirements under community service order and failure to comply with such requirements.

7.—(1) An offender in respect of whom a community service order is in force shall—

(*a*) report to a relevant officer as directed from time to time by or on behalf of the officer referred to in *section 6 (2)* or *10 (2)* or by or on behalf of an officer discharging functions previously discharged by that officer,

(*b*) perform satisfactorily for the number of hours specified in the order such work at such times as he may be directed by or on behalf of the relevant officer to whom he is required to report under this subsection or by or on behalf of an officer discharging functions previously discharged by that officer, and

(*c*) notify the officer to whom he is required to report under this subsection of any change of address.

(2) Subject to *section 9* , the work to be performed under a community service order shall be performed in the period of 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.

(3) Directions given under *subsection (1) (b)* shall, so far as practicable, avoid any interference with the times the offender normally works or attends a school or other educational or training establishment.

(4) An offender who fails, without reasonable excuse, to comply with a requirement of *subsection (1)* 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 not exceeding £300.

(5) An offence under *subsection (4)* may be prosecuted by a relevant officer.

Alternative methods of dealing with offence under *section 7 (4)*.

8.—(1) Where an offender is convicted of an offence under *section 7 (4)*, the court, in lieu of imposing a fine under that section, may—

(*a*) if the community service order was made by the District Court in the district of residence, 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 he could have been dealt with for that offence if the order had not been made, or

(*b*) if the community service order was made by the District Court in a district court district other than the district of residence or by another court, remand the offender to the District Court in that other district or to that other court to be dealt with in accordance with *subsection (2)*.

(2) Where, by virtue of *subsection (1) (b)*, an offender in respect of whom a community service order is in force is brought or appears before a court, the court shall 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 he could have been dealt with for that offence if the order had not been made.

Extension of time for performance of work under community service order.

9.—Where a community service order is in force and, on application by the offender or a relevant officer, it appears to the District Court that it would be in the interests of justice, having regard to circumstances which have arisen since the order was made, to extend the period of one year specified in *section 7 (2)*, the

court may, in relation to the order, extend that period.

Change of residence by offender.

10.—(1) Where a community service order is in force and, on application to the District Court by the offender or a relevant officer, the court is satisfied that the offender proposes to change, or has changed, his residence from the district of residence to another district court district and it appears to the court that arrangements can be made in that other district for the offender to perform work under the order, the court may amend the order by substituting the other district for the district of residence, and the district so substituted shall be deemed to be the district of residence for the purposes of this Act.

(2) Where a community service order is amended under this section, the court shall cause certified copies of the order as so amended to be sent to a specified relevant officer in the district of residence, who shall give a copy to the offender.

Revocation of community service order.

11.—(1) Where a community service order is in force and, on application by the offender or a relevant officer, it appears to the District Court that it would be in the interests of justice, having regard to circumstances which have arisen since the order was made, that the order should be revoked or that the offender should be dealt with in some other manner for the offence in respect of which the order was made, the court may—

(*a*) if the order was made by the District Court in the district of residence, either revoke the order or revoke it and deal with the offender for that offence in any manner in which he could have been dealt with for that offence if the order had not been made, or

(*b*) if the order was made by the District Court in a district court district other than the district of residence or by another court, remand the offender to the District Court in that other district or to that other court to be dealt with in accordance with *subsection (2)*.

(2) Where, by virtue of *subsection (1) (b)*, an offender in respect of whom a community service order is in force is brought or appears before a court and it appears to the court to be in the interests of justice, having regard to circumstances which have arisen since the order was made, to revoke the order or to revoke it and deal with the offender for the offence in respect of which the order was made in some other manner in which he could have been dealt with for that offence if the order had not been made, the court may either revoke the order or revoke it and so deal with the offender.

Jurisdiction.

12.—(1) The jurisdiction vested in the Circuit Court by this Act in respect of proceedings to which *sections 8 (2)* and *11 (2)* relate shall be exercised by the judge of the circuit where the community service order was made.

(2) The jurisdiction vested in the District Court by this Act—

(*a*) in respect of proceedings under *section 7 (4)*, in respect of proceedings to which *section 8 (1)* relates and in respect of applications under *sections 9* , *10 (1)* and *11 (1)*, shall be exercised by the justice for the time being assigned to the district of residence, and

(*b*) in respect of proceedings to which *sections 8 (2)* and *11 (2)* relate, shall be exercised by the justice for the time being assigned to the district court district where the community service order was made.

Power to summon or order arrest.

13.—Where the District Court proposes to exercise its powers under *section 9* , *10* or *11 (1)* otherwise than on application by the offender, it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.

Regulations.

14.—(1) The Minister may make regulations for the purpose of giving effect to this Act.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may—

(*a*) provide for regulating the performance of work under community service orders,

(*b*) limit the number of hours of work to be done under such an order on any one day,

(*c*) make provision regarding the reckoning of time worked under such orders,

(*d*) make provision for the payment of travelling and other expenses in connection with the performance of work under such orders, and

(*e*) provide for records to be kept of the work done under such orders.

(3) Regulations made under this section shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling the regulations is passed by either such House within the next twenty-one days on which that House has sat

after the regulations are laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses.

15.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title and commencement.

16.—This Act may be cited as the Criminal Justice (Community Service) Act, 1983, and shall come into operation on such day as the Minister appoints by order.