

CHAPTER 104

**OFFENDERS (COMMUNITY SERVICE AND
SUPERVISION ORDER)**

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CHAPTER 104

OFFENDERS (COMMUNITY SERVICE AND
SUPERVISION ORDER)

An Act to make provision for empowering the Courts to make a Community Service or Supervision Order in respect of convicted persons and for matters incidental thereto. *45 of 1999*

*[Assent 8th November, 1999]
[Commencement 14th February, 2000]*

1. This Act may be cited as the Offenders (Community Service and Supervision Order) Act, 1999. *Short title.*

2. In this Act — *Interpretation.*

“Court” means a Court having jurisdiction to impose a sentence of fine or imprisonment and includes a Juvenile Court established under section 3 of the Children and Young Persons (Administration of Justice) Act; *Ch. 97.*

“Director” means the Director of Rehabilitative Welfare Services or an officer designated by the Director;

“Minister” means the Minister responsible for Rehabilitative Services;

“prescribed organization” means the organizations as specified in the Second Schedule as amended from time to time by order of the Minister; *Second Schedule.*

“public places” includes beaches, roads, drains, cemeteries, parks, gardens and playgrounds to which the public are permitted to have access with or without payments;

“officer” includes a social welfare officer, a Probation officer, a police officer, a Justice of the Peace, a Minister of Religion, the head of a government department or such officer as may be designated by him, a Principal, an Education officer, the Chief Executive Officer of a prescribed organization, or any other person who in the opinion of

the Court is a proper person to undertake the responsibility of supervising and directing the offender.

Order for
discharge of
Community
Service or
Supervision
Order.

3. (1) Subject to subsection (3), a Court, if it is of the opinion that it is not expedient to impose a fine or a sentence of imprisonment notwithstanding that it finds the charge against the offender is proved may —

- (a) make an order discharging the offender absolutely or conditionally; or
- (b) in lieu of, or in addition to imposing any penalty which it is competent to impose, make —
 - (i) a Community Service Order requiring him to perform unpaid work (hereinafter referred to as a “Community Service Order”); or
 - (ii) an order requiring supervision in accordance with the provisions of this Act (hereinafter referred to as a “Supervision Order”); or
 - (iii) a Community Service Order and a Supervision Order.

(2) Where the Court imposes a Community Service Order or a Supervision Order in addition to a sentence of imprisonment, that Community Service Order or Supervision Order shall take effect immediately upon the expiration of the sentence of imprisonment.

(3) A Community Service Order or a Supervision Order may be imposed only if —

- (a) at the time of commission of the offence the offender has attained the age of 16 years in the case of a Community Service Order and 10 years in the case of a Supervision Order; and
- (b) the offence committed was not one referred to in the First Schedule.

First Schedule.

(4) A Community Service Order or a Supervision Order shall be for a maximum period of one year.

(5) The number of hours which a person may be required to work under a Community Service Order shall not exceed forty two and one half hours in any week.

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4. A Court shall not make a Community Service Order or a Supervision Order under this Act unless the Court is satisfied —
- Report of Director.
- (a) after considering a report by the Director about the offender and his circumstances and, if the Court thinks it necessary, hearing a probation officer that the offender is a suitable person to perform work under such an order; and
 - (b) that suitable arrangements can be made for the offender to do so.
5. Before making a Community Service Order or a Supervision 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; and
 - (b) the consequences which may follow if he fails to comply with any of the requirements of the order.
6. Where a Court makes a Community Service Order, the Director shall assign suitable work of the following categories to be performed by the offender —
- Community Service Orders.
- (a) work on premises or a building owned or maintained by the Government;
 - (b) work on premises or a building owned or maintained by a prescribed organization; or
 - (c) work in a public place and in relation to a public project.
7. Where a Court makes a Supervision Order, that order may include provision for —
- Supervision Orders.
- (a) the compulsory attendance of the offender at school or for vocational training at The Bahamas Vocational and Technical Institute or such other place of learning as specified in the said order;
 - (b) the attendance of the offender at a place for moral, ethical and religious instructions;
 - (c) the imposition of a curfew on the offender at times and places as specified in the said order;
 - (d) the obtaining of medical or psychiatric treatment by the offender;

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- (e) the compulsory participation by the offender in sporting and other social activities;
 - (f) the making of restitution or the payment of such compensation by the offender to the victim of the crime as the Court thinks reasonable;
 - (g) the discharge of the offender on the condition that the offender continues to work or attend school under the supervision of a responsible officer;
 - (h) the confinement of the offender to that offender's dwelling house during such hours as may be prescribed in the said order; or
 - (i) such order which in the opinion of the Court is suitable and appropriate in all the circumstances.

Appointment of
Officers.

8. (1) Every offender to whom an order of community service or supervision is imposed, shall be placed under the supervision of the Director.

(2) The Director may appoint one or more officers to undertake the responsibility of supervising and directing the offender.

(3) The officer shall in order to ensure the satisfactory performance of a Community Service Order or a Supervision Order, give such necessary instructions to the offender as shall, as far as practicable avoid any conflict with the religious beliefs of the offender and any interference with the times, during which he normally works or attends an educational establishment.

(4) The officer shall at the completion of the offender's sentence of Community Service or Supervision, or at such earlier time that the Court may direct, make a report in writing to the Director in respect of the sentence of Community Service or Supervision served by the offender.

Community
Service and
Supervision
Orders.

9. (1) A Community Service Order shall state —

- (a) the name of the offender;
- (b) the number of hours to be performed as Community Service;
- (c) the tasks to be performed and the hours during which, the days when and the places where, the tasks are to be performed; and
- (d) the name of the officer supervising the offender.

(2) A Court may make a Community Service Order or a Supervision Order in respect of two or more offences for which the offender may be sentenced by the Court and the hours of work specified in any of those orders may be concurrent with or additional to those specified in any other of those orders but so that the total number of hours which are not concurrent shall not exceed the maximum number of hours specified in subsection (5) of section 3.

- (3) A Supervision Order shall state —
- (a) the name of the offender;
 - (b) the length of time to be spent under supervision by the offender;
 - (c) the terms and conditions of the supervision; and
 - (d) the name of the officer responsible for supervising the offender.

10. (1) Where an offender has complied with the terms of a Community Service Order or a Supervision Order, the Director shall so inform the Court in writing and the Court shall —

Procedure upon compliance with orders.

- (a) discharge the Community Service Order or the Supervision Order; and
- (b) treat the offender as a rehabilitated person as defined in the Rehabilitation of Offenders Act, 1991.

Ch. 100.

(2) A Community Service Order or a Supervision Order may be discharged without the offender being summoned to appear before the Court.

11. (1) Where a Community Service Order or a Supervision Order is made against an offender who has not attained the age of eighteen years, the Court may order the parent or guardian of that offender to enter into a recognisance to pay the Court a sum not exceeding one thousand dollars in the event of a breach of the order by the offender.

Breach of Order.

(2) Notwithstanding subsection (1), the Court may in addition order the parent or guardian to pay such damages for injury or compensation for loss not exceeding one thousand five hundred dollars.

(3) If at any time while a Community Service Order or a Supervision Order is in force against an offender it appears on information provided by the Director that the offender has failed to comply with any of the requirements of the order, the Court may issue a summons requiring the offender to appear at the place and time specified in the summons.

(4) If it is proved to the satisfaction of the Court that the offender has failed without reasonable excuse to comply with any of the requirements of the Community Service Order or the Supervision Order, the Court may —

- (a) without prejudice to the continuance of the existing order, impose on the offender a fine not exceeding five hundred dollars;
- (b) without prejudice to the continuance of the existing order, make an additional order against the offender; or
- (c) 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 the offender if he had just been convicted by the Court of the offence.

Where offender commits an offence before completion of an order.

12. Where before the completion of a Community Service Order or a Supervision Order an offender commits and is found guilty of another offence, the Director shall so inform the Court in writing whereupon the Court may proceed in respect of the offence which gave rise to the Community Service Order or the Supervision Order as if the offender had wilfully breached that order.

Variation of Orders.

13. Where there is a Community Service Order or a Supervision Order against an offender, either the offender or the Director may apply to the Court to have the Order varied 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.

Regulations.

14. The Minister may make regulations generally for carrying out the provisions of this Act and for such matters as are to be prescribed.

FIRST SCHEDULE (Section 3(3)(b))

- Any assault offences under Title XVIII of the Penal Code. Ch. 84.
- Any offences under the Sexual Offences and Domestic Violence Act, 1991. Ch. 99.
- Any kidnapping or child-stealing offence under Title XIX of the Penal Code.
- Any offence of homicide under Title XX of the Penal Code.
- Any drug trafficking offence within the meaning ascribed to that expression by section 3 of the Proceeds of Crime Act. Ch. 93.
- Any offence which, by virtue of subsection (1) of section 4 of the Rehabilitation of Offenders Act, 1991 is excluded from rehabilitation under that Act. Ch. 100.
- Any offence committed by an offender who, at the time of the commission of the offence, was *in loco parentis* in respect of the victim of the offence.

SECOND SCHEDULE

- The Bahamas Red Cross
- The Salvation Army
- Children's Emergency Hostel
- Persil Rodgers Home for the Aged
- Unity House
- The Ranfurly Home
- Elizabeth Estates Children's Home
- Morris House
- Tynes House
- Yellow Elder Senior Citizen Centre
- Bilney Lane Children's Home
- Columbus House (Freeport)
- The Children's Home (Freeport)
- Bahamas National Trust