



Number 24 of 2011

**CRIMINAL JUSTICE (COMMUNITY SERVICE)
(AMENDMENT) ACT 2011**

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[No. 24.] *Criminal Justice (Community Service) [2011.]
(Amendment) Act 2011.*

ACTS REFERRED TO

Criminal Justice (Community Service) Act 1983
Fines Act 2010

1983, No. 23
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Number 24 of 2011

**CRIMINAL JUSTICE (COMMUNITY SERVICE)
(AMENDMENT) ACT 2011**

AN ACT TO AMEND THE CRIMINAL JUSTICE
(COMMUNITY SERVICE) ACT 1983; AND TO PROVIDE
FOR RELATED MATTERS.

[2nd August, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Minister” means the Minister for Justice and Equality;

“Principal Act” means the Criminal Justice (Community Service)
Act 1983.

2.—Section 1 of the Principal Act is amended, in subsection (1),
by—

Amendment of
section 1 of
Principal Act.

(a) the insertion of the following definitions:

“ ‘assessment report’ has the meaning assigned to it by
section 3;

‘circuit of residence’ has the meaning assigned to it by
section 6;

‘Director of the Probation Service’ means the person
appointed by the Minister to the post of Director of the
Probation Service;

‘probation officer’ means a person appointed by the Mini-
ster to be a probation officer;

‘Probation Service’ means those officers of the Minister
assigned to perform functions in the part of the Depart-
ment of State for which the Minister is responsible com-
monly known by that name;”,

(b) the deletion of the definition of “probation and welfare
officer”, and

(c) the substitution of the following definition for the defini-
tion of “relevant officer”:

“ ‘relevant officer’ means a person who has been assigned by the Director of the Probation Service to discharge functions under this Act and includes a probation officer discharging functions under this Act;”.

Amendment of
section 3 of
Principal Act.

3.—Section 3 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (1)—

“(1) (a) Where a court, by or before which an offender stands convicted, is of opinion that the appropriate sentence in respect of the offence of which the offender is convicted would, but for this Act, be one of imprisonment for a period of 12 months or less, the court shall, as an alternative to that sentence, consider whether to make an order (in this Act referred to as a ‘community service order’) in respect of the offender and the court may, if satisfied, in relation to the offender, that the provisions of section 4 have been complied with, make a community service order in accordance with this section.

(b) Where a court, by or before which an offender stands convicted, is of opinion that the appropriate sentence in respect of the offence of which the offender is convicted would, but for this Act, be one of imprisonment for a period of more than 12 months and, it is satisfied, in relation to the offender, that the provisions of section 4 have been complied with, the court may make a community service order in accordance with this section.”,

(b) by the insertion of the following subsections after subsection (1A) (inserted by section 18 of the Fines Act 2010):

“(1B) Where in relation to an offender, the court considers that the offender is a person in respect of whom it may be appropriate to make a community service order, it shall request the Probation Service to prepare a report (in this Act referred to as an ‘assessment report’) in respect of the offender.

(1C) An assessment report shall be prepared and furnished to the court within a period of 28 days from receipt of the request referred to in subsection (1B).

(1D) The court may, of its own motion or upon application to it in that behalf by a probation officer, extend the period within which the assessment report is to be furnished if the court is satisfied that there is good reason for doing so and it would be in the interests of justice so to do.”,

(c) by the insertion of the following subsection after subsection (2):

“(2A) Nothing in subsection (1) shall be construed as affecting any power of the court under any rule of law or by or under any enactment to make such orders as the court sees fit providing for an alternative to a sentence of imprisonment in respect of the offender.”,

and

(d) by the insertion of the following subsection after subsection (3):

“(4) In this section ‘imprisonment’ includes detention in Saint Patrick’s Institution or in a children detention school.”.

4.—Section 4 of the Principal Act is amended—

Amendment of section 4 of Principal Act.

(a) by the substitution of the following subsection for subsection (1):

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

(a) the court is satisfied—

- (i) having considered the offender’s circumstances,
- (ii) having considered the assessment report prepared by a probation officer pursuant to a request under section 3(1B), and
- (iii) where the court thinks it necessary, having heard 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 or her to perform such work;

(b) the offender has consented to the making of such an order.”,

and

(b) in subsection (2), by the substitution of the following paragraph for paragraph (c):

“(c) that under this Act the court may review the order on the application of either the offender or a relevant officer.”.

5.—The Principal Act is amended by the substitution of the following section for section 6:

Provisions consequential to orders made in District Court or Circuit Court.

“6.—(1) A community service order shall, if made by the District Court, specify the district court district (in this Act referred to as the ‘district of residence’) or, if made by the Circuit Court, the circuit (in this Act referred to as the ‘circuit 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 referred to in subsection (1) is made shall cause certified copies of the order to be sent to—

- (a) the judge of the District Court assigned to the district of residence, or the judge of the Circuit Court assigned to the circuit of residence, as the case may be, and
- (b) the Director of the Probation Service who shall give or cause to be given to the offender a copy of the order.”.

Amendment of section 7 of Principal Act.

6.—Section 7 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of the following paragraph for paragraph (a):

“(a) report to a relevant officer as directed from time to time by or on behalf of the Director of the Probation Service,”,

and

- (b) by the substitution of the following subsection for subsection (5):

“(5) An offence under subsection (4) may be prosecuted by a probation officer.”.

Amendment of section 8 of Principal Act.

7.—Section 8 of the Principal Act is amended, in subsection (1)(b), by the substitution of “the offender to a sitting of the District Court in that other district or to a sitting of” for “the offender to the District Court in that other district or to”.

Amendment of section 9 of Principal Act.

8.—Section 9 of the Principal Act is amended by the substitution of “court” for “District Court”.

Change of residence by offender in respect of orders made in District Court or Circuit Court.

9.—The Principal Act is amended by the substitution of the following section for section 10:

“10.—(1) Where a community service order is in force and, on application to the court, by the offender or by a relevant officer, the court is satisfied that the offender proposes to change, or has changed, his or her residence from the district of residence or circuit of residence, as the case may be, to another district court district or circuit and, it appears to the court that arrangements can be made in that other district court district or circuit for the offender to perform work under the order, the court may amend the order by substituting the other district court district or circuit, as the case may be, for the district of residence, or circuit of residence, as the case may be, and the district court district or circuit so substituted shall be deemed to be the district of residence or circuit of residence, as the case may be, 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) the judge of the District Court assigned to the district of residence (as so amended) or, as may be appropriate, the judge of the Circuit Court assigned to the circuit of residence (as so amended), and
- (b) the Director of the Probation Service who shall give or cause to be given to the offender a copy of the order.”.

10.—Section 11 of the Principal Act is amended by the substitution of the following subsection for subsection (1): Amendment of section 11 of Principal Act.

“(1) Where a community service order is in force and, on application by the offender or a probation officer, it appears to the 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 that court, either revoke the order or revoke it and deal with the offender in any manner in which he or she could have been dealt with for that offence if the order had not been made, or
- (b) if the order was made by a court in a district court district or circuit, other than the district of residence or circuit of residence, as the case may be, or by another court, remand the offender to a sitting of the District Court in that other district court district or to a sitting of the Circuit Court in that other circuit, as the case may be, or to a sitting of that other court to be dealt with in accordance with subsection (2).”.

11.—Section 12 of the Principal Act is amended by the substitution of the following subsection for subsection (1): Amendment of section 12 of Principal Act.

“(1) The jurisdiction vested in the Circuit Court by this Act—

- (a) in respect of applications under sections 9, 10(1) and 11(1), shall be exercised by the judge for the time being assigned to the circuit of residence, and
- (b) in respect of proceedings to which section 8(2) and 11(2) relate shall be exercised by the judge of the circuit where the community service order was made.”.

12.—Section 13 of the Principal Act is amended by the substitution of “court” for “District Court”. Amendment of section 13 of Principal Act.

[No. 24.] *Criminal Justice (Community Service) [2011.]
(Amendment) Act 2011.*

References to
Probation and
Welfare Service,
etc.

13.—(1) The officers of the Minister assigned to perform functions in the part of the Department of State for which the Minister is responsible commonly known as the Probation and Welfare Service before the coming into operation of this section shall, on and after that date, be known as the Probation Service and, references in any enactment to the Probation and Welfare Service of that Department of State shall be construed accordingly.

(2) A person appointed by the Minister who was before the coming into operation of this section referred to as—

- (a) a probation officer,
- (b) a welfare officer, or
- (c) a probation and welfare officer,

shall, on and after that date, be referred to as a probation officer and, references in any enactment to an officer referred to in *paragraph (a), (b) or (c)* shall be construed accordingly.

(3) A person appointed by the Minister to the post referred to before the coming into operation of this section as the Director of the Probation and Welfare Service shall, on and after that date, be referred to as the Director of the Probation Service and, references in any enactment to the Director of the Probation and Welfare Service shall be construed accordingly.

(4) This section shall be deemed to have come into operation on 19 May 2006.

Short title,
collective citation
and
commencement.

14.—(1) This Act may be cited as the Criminal Justice (Community Service) (Amendment) Act 2011.

(2) The Criminal Justice (Community Service) Act 1983 and this Act may be cited together as the Criminal Justice (Community Service) Acts 1983 and 2011.

(3) This Act, other than *section 13*, shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.