

1995—No. 461

**COMMUNITY SERVICE ORDERS ACT 1979—REGULATION**

(Community Service Orders Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Community Service Orders Act 1987, has been pleased to make the Regulation set forth hereunder.

JEFFREY SHAW, Q.C., M.L.C.,  
Attorney General.

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**PART 1—PRELIMINARY**

**Citation**

**1.** This Regulation may be cited as the Community Service Orders Regulation 1995.

**Commencement**

**2.** This Regulation commences on 1 September 1995.

**Definitions**

**3. (1)** In this Regulation:

“**Commissioner**” mean the Commissioner of Corrective Services;

“**offender**” means a person in respect of whom a community service order is in force;

“**the Act**” means the Community Service Orders Act 1979;

“**work site**” means a place at which an offender performs, or is required to perform, community service work.

**(2)** In this Regulation:

- (a) a reference to the performance of community service work by an offender includes a reference to attendance at an attendance centre and participation in such development programmes as the assigned officer directs; and
- (b) a reference to a form is a reference to a form set out in Schedule 1.

## **PART 2—CONDITIONS OF COMMUNITY SERVICES WORK**

### **Maximum hours for orders made by court: sec 4**

**4.** For the purposes of section 4 (1) of the Act, the prescribed number of hours is:

- (a) 100, for offences for which the maximum term of imprisonment provided by law does not exceed 6 months; or
- (b) 200, for offences for which the maximum term of imprisonment provided by law exceeds 6 months but does not exceed 1 year; or
- (c) 500, for offences for which the maximum term of imprisonment exceeds 1 year.

### **Hours of work**

**5.** An offender must not be directed:

- (a) to perform more than 8 hours of community service work (including time spent in attendance at an attendance centre or participation in a development programme) in any one day; or
- (b) to undertake more than 5 hours attendance at an attendance centre or participation in a development programme in any one day,

except by agreement between the offender and the assigned officer.

### **Meal breaks and tea breaks**

**6. (1)** An offender is entitled to one tea break of 10 minutes duration in each period of 3 hours continuous community service work.

**(2)** An offender who has performed community service work continuously (or interrupted only by a tea break to which the offender is entitled under subclause (1)) for 4 hours is entitled to a meal break of 45 minutes duration.

**Computation of hours**

**7. (1)** The following periods are to be taken to form part of the time spent by an offender in performing community service work:

- (a) time spent by the offender while actually carrying out community service work or participating in an activity referred to in clause 8 (1) (a);
- (b) the whole or such time spent by the offender in travelling between the offender's residence and work site or attendance centre or place where any development programme is conducted as the assigned officer thinks fit;
- (c) time spent by the offender in having any tea break or meal break to which an offender is entitled;
- (d) time spent at a work site or attendance centre (otherwise than as referred to in paragraph (a) or (c)) in accordance with a direction of the assigned officer;
- (e) the whole or such part of the period between the offender's early release from community service work on any day and the time when the offender would (but for the early release) otherwise have been released, as the assigned officer thinks fit.

**(2)** The assigned officer for an offender may determine that the whole or any part of the time spent by the offender at a work site (whether or not the time is spent in performing community service work) is to be deducted from any computation of the time spent by the offender in performing community service work if the offender, while at the work site:

- (a) is under the influence of drugs or alcohol; or
- (b) conducts himself or herself in an offensive manner.

**(3)** The periods of time referred to in subclause (1) (b) and (e) and (2) are to be determined by the offender's assigned officer in accordance with any relevant directions given by the Commissioner.

**Offenders to comply with certain requirements**

**8. (1)** An offender must, while performing community service work:

- (a) participate in any activities connected with the administration of the order in which the offender is directed by the assigned officer or supervisor to participate; and
- (b) receive visits at the offender's home within reasonable hours by the assigned officer or supervisor for any purpose connected with the administration of the order; and

- (c) comply with such standards of dress, cleanliness and conduct as the assigned officer or supervisor may from time to time determine; and
- (d) keep in good order and condition such clothing and equipment as may be issued to the offender for the purpose of performing community service work; and
- (e) sign an attendance register on arrival at and on departure from any attendance centre or work site which the offender is required to attend; and
- (f) comply with any reasonable direction given orally or in writing to the offender by the assigned officer or supervisor.

**(2) An offender must not:**

- (a) report for, or perform, community service work under the influence of drugs or alcohol; or
- (b) damage or deface property that is on or forms part of a work site or an attendance centre otherwise than in the course of performing community service work in accordance with the directions of the assigned officer or supervisor; or
- (c) damage or deface, or alter, remove or otherwise interfere with:
  - (i) any lock, key, bolt, ventilator or other fixture or fitting, or any fire extinguisher, fire hose, electrical installation or any other appliance, equipment or property in or used in an attendance centre (except in so far as it is reasonably necessary to do so in observing the normal routine of the attendance centre); or
  - (ii) any notice which has been exhibited on a notice board at an attendance centre by or with the consent of the officer-in-charge or supervisor of the attendance centre, unless authorised to do so by the officer-in-charge or supervisor; or
- (d) have possession of or consume any alcohol or other intoxicating substance while at an attendance centre or work site.

**Inability of offender to comply with certain directions**

**9. (1)** If an offender is directed to do anything that the offender is incapable of doing, the offender must, as soon as practicable, advise the assigned officer or supervisor of that fact.

**(2)** An assigned officer or supervisor may, if satisfied that the offender is incapable of doing something that the offender has been directed to do,

excuse the offender from having to comply with the direction even though the direction may have been given by some other assigned officer or supervisor.

**(3)** Before excusing an offender from having to comply with a direction, or as a condition of giving such an excusal, the assigned officer or supervisor may require the offender to furnish a certificate issued by a registered medical practitioner to the effect that the offender is incapable of doing the thing concerned.

#### **Travelling and transport arrangements**

**10.** The Commissioner, in such circumstances as the Commissioner thinks fit:

- (a) may provide transport for an offender to and from a work site or attendance centre or place where any development programme is conducted; or
- (b) may reimburse an offender for the expenses incurred by the offender in connection with the performance of community service work.

### **PART 3—MISCELLANEOUS**

#### **Appointments of authorised persons and assigned officers**

**11. (1)** The Commissioner may appoint any person who is, in the opinion of the Commissioner, suitably qualified and of suitable character, in either or both of the following capacities:

- (a) as an authorised person for the purposes of section 6 (2) or (3) of the Act;
- (b) as an assigned officer in respect of the administration of a community service order for the purposes of section 13 (1) of the Act.

**(2)** The Commissioner may appoint any person who is, in the opinion of the Commissioner, suitably qualified and of suitable character to exercise and perform the powers, authorities, duties and functions of an assigned officer during the illness or absence of the assigned officer.

**(3)** A person appointed under this clause is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Commissioner may determine in respect of the person, unless the person is an officer or temporary employee of the Public Service.

**Appointment of supervisors**

**12. (1)** The Commissioner may appoint any person who is, in the opinion of the Commissioner, suitably qualified and of suitable character as a supervisor to supervise persons in the performance of community service work.

**(2)** A person so appointed is entitled to receive such remuneration (including travelling and subsistence allowances) as the Commissioner may determine in respect of the person, unless the person is an officer or temporary employee of the Public Service.

**Supervisor to report to assigned officer**

**13.** A supervisor must, when required by an assigned officer to do so, report to the assigned officer on any matter relating to an offender under the supervisor's supervision.

**Form of order made by court: sec 12**

**14.** For the purposes of section 12 (1) of the Act, the prescribed form is Form 1.

**Application for extension or revocation of order made by court: secs 17, 18**

**15. (1)** An application under section 17 of the Act for an extension of the period for which a community service order is in force or section 18 of the Act for the revocation of a community service order must be in writing and in such form as the Commissioner may from time to time determine.

**(2)** On receipt of the application, the court is to fix a date for the hearing of the application, being a date not earlier than 14 days after, and not later than 3 months after, the date of filing of the notice.

**(3)** A copy of the application must be given not later than 5 clear days before the date fixed for hearing of the application:

- (a) to the offender, if the applicant is an assigned officer; or
- (b) to the assigned officer, if the applicant is an offender.

**(4)** For the purposes of subclause (3), the application may be given to a person by the court or by the applicant:

- (a) by serving it or causing it to be served on the person personally; or
- (b) by sending it or causing it to be sent by post to the person's address as last known to the applicant.

**(5)** The court may vary or waive the requirements of subclause (2) or (3) with the consent of the offender.

**Form and notice of fine default order: sec 26A**

**16. (1)** For the purposes of section 26A (1) of the Act, the prescribed form is Form 2.

**(2)** For the purposes of section 26A (4) of the Act, the manner in which notice of an order is to be given is by service, personally or by post, of a copy of the order.

**Extension of fine default orders: sec 26H**

**17. (1)** For the purposes of section 26H (2) and (3) of the Act, an application for the extension of the period during which a community service order remains in force must be in writing and in such form as the Commissioner may from time to time determine.

**(2)** A copy of the extension of a community service order under section 26H of the Act is to be served personally or by post on the person to whom the community service order relates.

**Satisfaction of fine default orders by payment: sec 26I**

**18. (1)** For the purposes of section 26I of the Act, the prescribed manner of making a payment referred to in that section is by taking a certificate of hours worked to a Local Court and paying the appropriate amount to the Clerk of the Local Court.

**(2)** For the purposes of this clause, an assigned officer may issue a certificate of hours worked, in such form as the Commissioner may from time to time determine, indicating:

- (a) the number of hours of community service work performed by the offender under the community service order to which the certificate relates; and
- (b) the total amount that must be paid by the offender to satisfy that order.

**Service of documents**

**19.** Service of a document under the Act or this Regulation is to be treated as having been effected if it is served by post at the last known address of the person on whom the document is required to be served.

**1995—No. 461****Repeal**

**20. (1)** The Community Service Orders Regulation 1989 is repealed.

**(2)** Any act, matter or thing that, immediately before the repeal of the Community Service Orders Regulation 1989, had effect under that Regulation continues to have effect under this Regulation.

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**SCHEDULE I—FORMS****Form 1**

(Cl. 14)

**COMMUNITY SERVICE ORDERS ACT 1979****COMMUNITY SERVICE ORDER**

BE IT REMEMBERED that on the ..... day of .....

19 ....., ..... of .....  
 (name) (address)

(hereinafter called the defendant) was convicted by .....  
 ..... at ..... for that .....  
 (name of court)

.....

.....

.....  
 (particulars of offence)

whereupon the court ordered:

(a) that the defendant be required to perform, for a period of ..... hours, community service work, being

\* ..... hours of unpaid work;

\* ..... attendance at an attendance centre and participation in development programmes for the periods and at the times specified below:

.....

.....

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(b) that the defendant report, within ..... days, to ..... at ..... for the purpose of enabling the administration of this order to be commenced.

The supervising court for the purposes of this order is the ..... Local Court.

Dated this ..... day of ..... 19 .....

Clerk of the Court.

\* Delete if inapplicable.

I ..... acknowledge receipt of a copy  
(*defendant*)

of this Order.

.....  
(*signature*)

.....  
(*date*)

**Form 2**

(Cl. 16)

COMMUNITY SERVICE ORDERS ACT 1979  
COMMUNITY SERVICE ORDER—FINE DEFAULT

Name of offender: .....

Address: .....

Date of birth: .....

Offence: .....

Date of order: .....

Place of order: .....

Court reference: .....

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By virtue of the above order, the offender was ordered to pay the sum of:

The time allowed to pay the amount having expired, the total amount still outstanding is:

The offender is therefore ordered to perform community service work in the following terms:

Work as directed by the assigned officer for a period of:

.....  
For the purpose of enabling the administration of this order to be commenced, the offender is required to report to .....  
office of the Probation Service on or before .....

The term of the order is to be twelve months unless the order is completed sooner by:

- (a) completion of the work;
- (b) subsequent imprisonment of the offender; or
- (c) breach proceedings under section 26K of the Act.

Dated this ..... day of ..... 19 ..... at  
..... Local Court.

Penalty	\$
Court costs	\$
Prof. costs	\$

\_\_\_\_\_

\_\_\_\_\_

Authorised Justice.

**NOTICE TO OFFENDER**

1. You may satisfy this order by paying the amount shown in full or by making arrangements with the Clerk of the Local Court to pay by instalments.
2. Failure to report as directed will result in the order being revoked and the issue of *a warrant for your commitment to prison*.
3. You should telephone the Probation Service before reporting. There may be a Reporting Centre closer to your home than the office specified in the order.

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**SCHEDULE 1—FORMS**

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and replace the Community Service Orders Regulation 1988 with generally no change in matters of substance. The Regulation deals with the following matters:

- (a) conditions relating to the performance of community service work, including maximum hours of work to be performed each day, the taking of meal breaks and tea breaks and requirements to be observed by offenders performing such work (Part 2);
- (b) miscellaneous matters, including forms to be used under the Community Service Orders Act 1979, service of documents and the appointment of assigned officers and supervisors for the administration of community service orders (part 3);
- (c) formal matters (Part 1).

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This Regulation is made under the Community Service Orders Act 1987, including section 27 (the general regulation making power) and various other sections referred to in the Regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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