

**CHILDREN (COMMUNITY SERVICE ORDERS)  
AMENDMENT ACT 1988 No. 9**

NEW SOUTH WALES



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**CHILDREN (COMMUNITY SERVICE ORDERS) AMENDMENT  
ACT 1988 No. 9**

NEW SOUTH WALES



**Act No. 9, 1988**

An Act to amend the Children (Community Service Orders) Act 1987 to make further provision with respect to the performance of community service work by children and other young persons. [Assented to 16 June 1988]

*Children (Community Service Orders) Amendment 1988*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Children (Community Service Orders) Amendment Act 1988.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Amendment of Children (Community Service Orders) Act 1987 No. 56**

3. The Children (Community Service Orders) Act 1987 is amended as set out in Schedules 1 and 2.

**Existing fine defaulters**

4. (1) In this section—

“community service work”—

(a) in relation to an order made under the Children (Community Service Orders) Act 1987, has the meaning it has in that Act; and

(b) in relation to an order made under the Community Service Orders Act 1979, has the meaning it has in that Act;

“existing warrant” means a warrant referred to in clause 3B of the Miscellaneous Acts (Community Welfare) Repeal and Amendment Regulation 1988;

“fine defaulter”, in relation to a warrant, means the person in respect of whom the warrant was issued.

(2) Clause 3B of the Miscellaneous Acts (Community Welfare) Repeal and Amendment Regulation 1988 is repealed.

(3) All existing warrants shall be deemed to have effect.

(4) A person seeking to execute an existing warrant shall, before executing the warrant, inform the fine defaulter that the fine defaulter may apply in a form approved by the Attorney General, within 7 days of being so informed—

(a) if the fine defaulter is under 18 years of age—to the prescribed officer referred to in section 5A (1) of the Children (Community Service Orders) Act 1987; or

(b) if the fine defaulter is of or above the age of 18 years—to the prescribed officer referred to in section 26B (1) of the Community Service Orders Act 1979,

for an order to work off the amount payable in satisfaction of the warrant by the performance of community service work.

(5) The warrant shall not be executed during the 7-day period.

*Children (Community Service Orders) Amendment 1988***(6)** If a fine defaulter applies—

- (a) under subsection (4) (a), the prescribed officer may make an order under section 5A of the Children (Community Service Orders) Act 1987 in respect of the fine defaulter; or
- (b) under subsection (4) (b), the prescribed officer may make an order under section 26B of the Community Service Orders Act 1979 in respect of the fine defaulter.

**(7)** Any period of community service work required to be performed by a fine defaulter under an order made pursuant to an application under this section shall be performed concurrently with any period of community service work to be performed by the fine defaulter under—

- (a) any other such order; or
- (b) any children's community service order or community service order made in respect of the fine defaulter under the Children (Community Service Orders) Act 1987 or the Community Service Orders Act 1979 before 18 January 1988.

**(8)** An existing warrant is revoked on the making of an order under the Children (Community Service Orders) Act 1987 or the Community Service Orders Act 1979 requiring the fine defaulter to work off the amount payable in satisfaction of the warrant by the performance of community service work.

**(9)** Subsections (4)–(8) do not apply to a warrant issued in respect of a fine defaulter who is already under detention at a detention centre within the meaning of the Children (Detention Centres) Act 1987 or serving a term of imprisonment.

**(10)** For the purposes of the execution of an existing warrant or the making of an order in respect of a fine defaulter pursuant to an application under this section, the apparent age of the fine defaulter shall, in the absence of positive evidence as to age, be taken to be the age of the fine defaulter.

**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

**(1) Section 5A (Community service work in default of payment of fine)—**

- (a) Section 5A (1)—  
Omit “and section 8”.
- (b) Section 5A (3), (4)—  
After section 5A (2), insert:

*Children (Community Service Orders) Amendment 1988*SCHEDULE 1—AMENDMENTS—*continued*

(3) If an order cannot be made in respect of any fine, penalty, costs or other amount payable by a person because, as referred to in subsection (2) (a), the person is already under detention, the prescribed officer shall issue a warrant under section 87 of the Justices Act 1902 committing the person to the control of the Minister administering the Children (Detention Centres) Act 1987 for a period calculated in accordance with that section.

(4) A warrant referred to in subsection (3) shall be deemed to be an order under section 33 (1) (g) of the Children (Criminal Proceedings) Act 1987.

- (2) Section 7 (**Children's community service orders not to be made except with consent**)—

Omit the section.

- (3) Section 8 (**Children's community service orders not to be made in respect of children under 14 years**)—

Omit the section.

- (4) Section 9 (**Children's community service orders not to be made by court unless work is available**)—

Section 9 (b) (i)—

After "suitable person", insert "and is sufficiently mature".

- (5) Section 13 (**Number of hours of community service work**)—

- (a) Section 13 (2A)—

Omit "but so that the number of hours does not in any case exceed 100 hours", insert instead:

but so that the sum of—

(d) the number of hours of work remaining to be performed, at any time, concurrently under any children's community service orders made in respect of the person (whether by a court or prescribed officer); and

(e) the number of hours of work remaining to be performed, at any time, otherwise than concurrently, under any such orders,

does not exceed 100 hours.

- (b) Section 13 (4)—

After section 13 (3), insert:

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SCHEDULE 1—AMENDMENTS—*continued*

(4) The number of hours of community service work to be performed by a person under a children's community service order made by a prescribed officer shall be concurrent with those specified in any other children's community service order made in respect of the person (whether by a court or prescribed officer).

(6) Section 18 (**Directions**)—

After section 18 (1), insert:

(1A) Despite subsection (1), the assigned officer may direct a person in respect of whom a children's community service order is in force to perform work (whether or not the work is of a kind usually performed for fee or reward on a regular basis)—

(a) at facilities (within the meaning of the Children (Care and Protection) Act 1987) operated by officers of the Department of Family and Community Services; or

(b) for such government departments or offices or such public or local authorities, and in such circumstances, as are prescribed by the regulations.

(7) Section 24 (**Breach of requirements of children's community service orders made by court**)—

Section 24 (1)—

After "community service order", insert "made by a court".

(8) Section 25 (**Issue of summons or warrant—failure to comply with children's community service orders made by court**)—

Section 25 (1)—

After "community service order", insert "made by a court".

(9) Section 26 (**Breach of children's community service orders made by court—how dealt with**)—

(a) Section 26 (1) (c)—

After "made:", insert "or".

(b) Section 26 (1) (d)—

Omit the paragraph.

(c) Section 26 (1A)—

Omit the subsection.

(10) Section 26A—

After section 26, insert:

SCHEDULE 1—AMENDMENTS—*continued***Breach of fine default community service orders**

26A. (1) If it appears to an assigned officer that a person in respect of whom a children's community service order made by a prescribed officer is in force has failed without reasonable cause or excuse to comply with—

- (a) the order; or
- (b) any requirement made by or under this Act in respect of the order.

the assigned officer shall report the matter to a prescribed officer setting out the reasons why the assigned officer considers the order should be revoked.

(2) The prescribed officer shall cause a copy of the report to be served in accordance with the regulations on the person in respect of whom the community service order was made.

(3) A person on whom a report is served under subsection (2) may, within 14 days after service of the report, give reasons in writing to the prescribed officer why the order should continue.

(4) If—

- (a) no reasons are given; or
- (b) the prescribed officer considers that the reasons given are insufficient to justify the continuation of the order,

the prescribed officer shall refer the matter to an authorised justice (within the meaning of section 25).

(5) The authorised justice may, after considering submissions from the prescribed officer and the person in respect of whom the order is in force—

- (a) revoke the order; or
- (b) determine that the order shall continue,

and the decision of the authorised justice shall be final.

(6) On revoking an order, the authorised justice may, having regard to the extent to which the unpaid amount of the fine, penalty, costs or other amount of money in respect of which the order was made exceeds the amount worked off by the performance of community service work in accordance with the order, issue a warrant under section 87 of the Justices Act 1902 committing the person to the control of the Minister administering the Children (Detention Centres) Act 1987 for a period calculated in accordance with that section in respect of the unsatisfied balance.

*Children (Community Service Orders) Amendment 1988***SCHEDULE 1—AMENDMENTS—*continued***

(7) A warrant referred to in subsection (6) shall be deemed to be an order under section 33 (1) (g) of the Children (Criminal Proceedings) Act 1987.

**(11) Section 28A—**

After section 28, insert:

**Disclosure of information**

28A. (1) A person who discloses any information obtained in connection with the administration or execution of this Act is guilty of an offence unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained; or
- (b) in connection with the administration or execution of this Act; or
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) in accordance with a requirement imposed under the Ombudsman Act 1974; or
- (e) with other lawful excuse.

Maximum penalty: 10 penalty units or imprisonment for 12 months, or both.

(2) Proceedings for an offence against this section shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

**SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW REVISION**

(Sec. 3)

**(1) Section 12 (Preparation and service of copies of children's community service orders)—**

Section 12 (2) (c)—

Omit "the Registrar", insert instead "a Registrar".

**(2) Section 26 (Breach of children's community service orders made by court—how dealt with)—**

Section 26 (2)—

Omit "a member of the Children's Court", insert instead "a Children's Magistrate".



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SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW  
REVISION—*continued*

(3) **Section 27 (Notification of amendment or revocation of children's community service orders)—**

Section 27—

Omit “the Registrar”, insert instead “a Registrar”.

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