

THE COMMUNITY SERVICE ORDER (AMENDMENT) BILL
(No. VII of 2009)

Explanatory Memorandum

1. The object of this Bill is to amend the Community Service Order Act in order to deal more efficiently with convicted persons.
2. The Bill provides that –
 - (a) a Court may make a community service order in the case of –
 - (i) a minor between the ages of 16 and 18 who is sentenced to imprisonment; and
 - (ii) a person sentenced to imprisonment for non-payment of a fine, or the balance of a fine, not exceeding 25,000 rupees;
 - (b) the duration of community service to be performed by a convicted person shall be predetermined.

24 April 2009

S. BAPPOO
*Minister of Social Security, National Solidarity
and Senior Citizens Welfare
& Reform Institutions*

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
 2. Interpretation
 3. Section 2 of principal Act amended
 4. Section 3 of principal Act amended
 5. Section 5 of principal Act amended
 6. Section 6 of principal Act amended
 7. Section 9 of principal Act amended
 8. Section 10 of principal Act amended
 9. Schedules to principal Act repealed and replaced
 10. Commencement
- SCHEDULE
-

A BILL

To amend the Community Service Order Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Community Service Order (Amendment) Act 2009.

2. Interpretation

In this Act –

“principal Act” means the Community Service Order Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

(a) in the definition of “community service officer”, by deleting the words “, or any other officer designated by the Ministry responsible for reform institutions,”;

(b) by deleting the definition of “community service order” and replacing it by the following definition –

“community service order” means an order requiring a convicted person to perform unpaid work in the open for a specified period and in the form set out in the First Schedule;

(c) in the definition of “Minister”, by deleting the full stop and replacing it by a semi-colon;

(d) by adding, in the appropriate alphabetical order, the following new definitions –

“minor” means a person who has attained the age of 16 and is under the age of 18;

“probation officer” has the same meaning as in the Probation of Offenders Act.

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended –

(a) by repealing subsection (1) and replacing it by the following subsection –

(1) Where a Court –

- (a) convicts a minor and, in accordance with the Juvenile Offenders Act, sentences him to a term of imprisonment, not being a sentence fixed by law; or
- (b) convicts a person of the age of 18 or over and sentences him to a term of imprisonment not exceeding 2 years and not being a sentence fixed by law,

the Court may suspend the sentence of imprisonment and make a community service order.

(b) by repealing subsection (3) and replacing it by the following subsection –

(3) Where a fine –

- (a) not exceeding 25,000 rupees with or without costs ordered by a Court remains unpaid; or
- (b) exceeding 25,000 rupees with or without costs ordered by a Court has an unpaid balance of 25,000 rupees or less,

and the Court orders, by warrant or otherwise, that the convicted person shall undergo a term of imprisonment in lieu of the payment of the fine and costs, the Court may suspend the sentence of imprisonment and make a community service order.

(c) in subsection (5), by repealing paragraph (a) and replacing it by the following paragraph –

- (a) a sentence of penal servitude for life or detention during the President's pleasure;

5. Section 5 of principal Act amended

Section 5 of the principal Act is amended by repealing subsection (1) and replacing it by the following subsection –

- (1) (a) The duration of a community service order shall be calculated in the manner specified in the Second Schedule.

(b) A community service order shall span over a period of not more than 12 months.

6. Section 6 of principal Act amended

Section 6 of the principal Act is amended –

- (a) in subsection (1) –
 - (i) in paragraph (a), by deleting the figure “10” and replacing it by the figure “45”; and
 - (ii) by repealing paragraph (f) and replacing it by the following paragraph –
 - (f) whether the convicted person shall be subject to counselling and shall receive visits at his home by the community service officer;
- (b) in subsection (2), by inserting, after the words “community service officer”, the words “on the day the order is made”; and
- (c) in subsection (3), by deleting the words “may require” and replacing them by the words “shall require”.

7. Section 9 of principal Act amended

Section 9 of the principal Act is amended in subsection (3), by deleting the words “Second Schedule” and replacing them by the words “Third Schedule”.

8. Section 10 of principal Act amended

Section 10 of the principal Act is amended –

- (a) in subsection (1), by deleting the words “upon information upon oath in the form set out in the Third Schedule made before it” and replacing them by the words “on a report submitted pursuant to section 6(3)”; and
- (b) in subsection (4), by repealing paragraph (a) and replacing it by the following paragraph –
 - (a) without prejudice to the continuance of the community service order, impose a fine not exceeding 10,000 rupees;

9. Schedules to principal Act repealed and replaced

The First, Second and Third Schedules to the principal Act are repealed and replaced by the Schedules specified in the Schedule to this Act.

10. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

SCHEDULE
[Section 8]

FIRST SCHEDULE
[Section 2]

COMMUNITY SERVICE ORDER

1. WHEREAS this day/on the of 20.....*,
("the convicted person") is/was* convicted before me for having on
..... committed the offence of in
breach of and the convicted person is/was* sentenced
to undergo /to pay a fine of
rupees andrupees for costs which the convicted person is unable
to pay* and I have ordered him to undergo
imprisonment for non-payment of the fine and costs.
2. WHEREAS after considering a report from..... /hearing
the probation officer*, I am satisfied that the convicted person is a suitable
person to be the subject of a community service order.
3. WHEREAS I have explained to the convicted person in the
..... language –
 - (a) the purpose, effect and duration of the order;
 - (b) the hereunder mentioned conditions attached to the order and
the consequences of a breach of any condition;
 - (c) that the Court may amend the order on application made by the
convicted person or a community service officer;
 - (d) that any breach of the Act or any condition of the community
service order renders him liable to –
 - (i) without prejudice to the continuance of the order, a fine
not exceeding 10,000 rupees;
 - (ii) a revocation of the order; or
 - (iii) an amendment of the order.
4. WHEREAS I have ascertained that –
 - (a) the convicted person gives his consent to the making of the
order;
 - (b) adequate arrangements have been made for the carrying into
effect of the order.

5. I THEREFORE SUSPEND the sentence of imprisonment imposed on the convicted person and make a community service order requiring the convicted person to perform unpaid work in the open for hours, subject to the following conditions –

- (a) work shall commence on
- (b) work shall be performed for hours on (days) at (place) for (Government department/local authority/ statutory body/prescribed charitable or voluntary institution or organisation*);
- (c) the convicted person shall reside at
- (d) the convicted person shall be under the supervision of, a community service officer, or any other community service officer designated by the Commissioner of the Mauritius Probation and Aftercare Service;
- (e) the convicted person shall be of good conduct, shall not disturb the public peace and shall avoid contact with, the victim of the offence with respect to which he is/was* convicted, or with
- (f) the convicted person shall abstain from using an offensive weapon;
- (g) the convicted person shall meet the needs of his dependants;
- (h) the work shall be performed diligently and at reasonable speed;
- (i) the convicted person shall make his own arrangements, financial or otherwise, to attend his site of work;
- (j) the convicted person shall be subject to counselling and shall receive visits at his home by the community service officer.

6. I FURTHER ORDER that the convicted person –

- (a) shall pay rupees for costs;
- (b) is disqualified from

7. GIVEN under my hand and seal of the Court on this day of

.....
Magistrate/Judge*
District Court of/Intermediate Court/Supreme Court*

*Delete as appropriate

SECOND SCHEDULE

[Section 5]

HOURS OF COMMUNITY SERVICE

Duration of suspended term of imprisonment	Corresponding hours of community service
Less than 1 month	60
1 month	70
2 months	80
3 months	90
4 months	100
5 months	110
6 months	120
7 months	130
8 months	140
9 months	150
10 months	160
11 months	170
12 months	180
13 months	190
14 months	200
15 months	210
16 months	220
17 months	230
18 months	240
19 months	250
20 months	260
21 months	270
22 months	280
23 months	290
24 months	300

THIRD SCHEDULE
[Section 9]

APPLICATION FOR AMENDMENT OF COMMUNITY SERVICE ORDER

To the District Court of/Intermediate Court/Supreme Court*
I, (community service officer)/or
..... (the convicted person)* apply for an
amendment of the community service order for the following reason(s) –
.....
.....
.....
.....

.....
Signature of community service
officer/convicted person *

Date:

AMENDMENT OF COMMUNITY SERVICE ORDER

Upon application made by
....., community service
officer/convicted person*, and being satisfied that an amendment of the
order is necessary in the interests of justice, having regard to all the
circumstances, I hereby amend the community service order by
.....
.....
.....

.....
Magistrate/Judge*
District Court of/Intermediate Court/Supreme Court*

Date:

*Delete as appropriate
