



AN BILLE UM CHEARTAS COIRIÚIL (SEIRBHÍS POBAIL), 1983

CRIMINAL JUSTICE (COMMUNITY SERVICE) BILL, 1983

EXPLANATORY MEMORANDUM

General

1. The Bill proposes an alternative sanction whereby an offender who is convicted of a criminal offence may be ordered by the court which convicts him to perform, under supervision and within a stated time, a specified number of hours of unpaid work for the benefit of the community. The Bill provides that work under a community service order will be organised and supervised by the Probation and Welfare Service of the Department of Justice.

Definitions and scope of the Bill

2. *Section 1* contains the definitions of terms used throughout the Bill and they are mostly self-explanatory. The term "probation and welfare officer" includes those persons who are now members of the Probation and Welfare Service but who were, at the time of their appointment to the Service, appointed by the Minister as either welfare officers or probation officers. The term "relevant officer" is defined as a probation and welfare officer discharging functions under the Bill.

3. *Section 2* sets out the scope of the Bill. It applies to persons of or over the age of 16 years who have been convicted of a criminal offence for which there is no mandatory sentence but for which the court would, but for the Bill, impose a sentence of penal servitude, imprisonment or detention in St. Patrick's Institution.

Community service order

4. *Section 3* deals with the making of community service orders. *Subsection (1)* enables a court before which an offender is convicted (or before which he appears on appeal) to make a community service order instead of imposing any other sanction. *Subsection (2)* sets the minimum (40 hours) and maximum (240 hours) number of hours to be worked under an order. *Subsection (3)* preserves existing powers of the courts to make other orders e.g. an order disqualifying a person from holding a driving licence or an order for the payment of compensation.

Conditions required for making of community service order

5. *Section 4, subsection (1)* deals with conditions which must be complied with before a court can make a community service order. There are three conditions. First, the court must satisfy itself, having considered a report on the offender from a probation and welfare officer, that the offender is suitable for community service, secondly, that the offender can be provided with work and, thirdly, that the

offender consents to the making of the order. *Subsection (2)* requires a court, before it makes a community service order, to explain to the offender the effect of the order i.e. that he must report to a relevant officer as directed, that he must perform satisfactorily within a period of 12 months a specified number of hours of work and that any change of address by the offender must be notified to the relevant officer. The court is also required to explain to the offender the consequences which may follow if he fails to comply with those requirements. Also the offender must be told that the District Court has power to review the order if, following the making of the order, circumstances arise which would justify a review of the order.

More than one community service order in respect of an offender

6. *Section 5* provides for the making of more than one community service order in respect of an offender but the maximum number of hours in respect of that offender, irrespective of the number of orders made, may not exceed 240. A court may direct its order to be concurrent with, or consecutive to, an existing community service order irrespective of which court made the earlier order.

Provisions consequential on making of community service order

7. *Section 6, subsection (1)* provides that the community service order shall specify the "district of residence" and defines it as the district court district in which the offender resides or will reside while performing work under the order. Subsequent proceedings in relation to a breach of the order and applications for an extension of time to perform the work or to review the order will be brought before the District Court in the district of residence. There is provision in the Bill for having the specified district of residence changed where the offender moves to another district (see paragraph 11). *Subsection (2)* provides for the sending of a copy of the order to a particular probation and welfare officer in the offender's district of residence and for direct contact between the offender and that officer. The officer is required to give a copy of the order to the offender (*subsection (2) (b)*) and tell him when and where to report to the officer who is to supervise his work (see *section 7 (1)*). A copy of the order has also to be sent to the justice of the District Court for the offender's district of residence.

Requirements under community service order and failure to comply with such requirements

8. *Section 7, subsection (1)* sets out the requirements with which an offender in respect of whom a community service order is made must comply. Basically he is required to report to his supervising officer (see paragraph 7), perform satisfactorily the number of hours of work required of him under the order and notify his supervising officer of any change of address on his part. *Subsection (2)* provides that the number of hours specified in a community service order shall be performed by the offender in the twelve month period commencing on the date of the order. The order continues in force until such time as either it is revoked by the court which made it or the offender has worked under it for the number of hours specified in it. *Subsection (3)* provides that the performance of community service work shall avoid, so far as this can be done, any interference with the offender's normal work or with his attendance at any school or other educational or training establishment. *Subsection (4)* makes it a summary offence for an offender to fail, without reasonable excuse, to comply with the requirements of *subsection (1)* of this section. The offence will be dealt with by the District Court in the district where the offender resides. The court may impose a fine subject to a maximum of £300. There is no provision for a prison sentence in lieu of a fine. (The court may, on the other hand, adopt the alternative procedure provided for in *section 8.*) *Subsection (5)* allows a relevant officer to bring proceedings in the District Court under *subsection (4)*.

Alternatives to a fine for offence under section 7 (4)

9. Section 8 gives the District Court an option which it may use instead of imposing a fine under section 7 (4) on an offender who fails to comply with the requirements relating to the order. It provides that, if the order was made in the district court district in which the proceedings under section 7 (4) are being taken, the court may simply revoke the order or revoke it and deal with the offender for the original offence. If the order was made in another district court district or by another court, the District Court may remand the offender to be dealt with by the justice who or the court which made the community service order. The justice or the court, as appropriate, may either revoke the order or revoke it and deal with the offender for the original offence.

Extension of time

10. Section 9 enables the District Court to extend the time for completion of the work beyond the one year period laid down by section 7 (2).

Change of residence

11. Section 10, subsection (1) provides that where a community service order is in force and either the offender or a probation and welfare officer satisfies the District Court that the offender has changed or is about to change residence, the court may amend the order by substituting the new district court district to which the offender has moved or is about to move for the district of residence specified in the order. The new district so substituted then becomes the district of residence for the purposes of the Bill. Subsection (2) requires the District Court to cause copies of the order, as amended, to be sent to a particular probation and welfare officer in the new district and he, in turn, is required to give a copy of the order to the offender. That officer will then direct the offender to report to his new supervising officer under section 7 (1) (see paragraphs 7 and 8).

Review of community service order

12. Section 11 enables the District Court to review a community service order where it appears to the court to be in the interests of justice to do so having regard to circumstances which have arisen since the order was made. The application for review is made in the district where the offender resides and may be made either by the offender himself or by a probation and welfare officer. The review may mean that the order is simply revoked or is revoked and the offender is dealt with for the original offence. In any event, only the court which made the order originally may revoke it and deal with the offender for the original offence. The procedure here is the same as under section 8.

Circuit Court and District Court jurisdiction

13. Section 12 provides for the exercise by the appropriate judges and justices of the jurisdiction conferred by the Bill on the Circuit Court and the District Court respectively.

Attendance of offender in the District Court for hearing of applications

14. Section 13 requires the District Court, before it deals with any application under section 9, 10 or 11 (other than an application made by the offender himself) to summon the offender to appear before it and if he fails to appear on the summons it may issue a warrant for his arrest.

Regulations

15. Section 14 provides for the making of regulations for the purpose of giving effect to the provisions of the Bill.

Expenses

16. Section 15 is the usual financial provision.

Short title and commencement

17. Section 16 contains the short title and provides that the Bill shall come into operation on a date to be appointed by order of the Minister for Justice.

An Roinn Dlí agus Cirt.

Aibreán, 1983.