



**AN BILLE UM CHEARTAS COIRIÚIL (SEIRBHÍS POBAIL)
(LEASÚ), 2011
CRIMINAL JUSTICE (COMMUNITY SERVICE)
(AMENDMENT) BILL 2011**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The primary purpose of this Bill is to introduce a requirement on a court, before which an offender stands convicted of an offence for which a sentence of up to six months imprisonment would be appropriate, to consider imposing the alternative sentence of a community service order.

Section 1 defines certain terms used in the Bill.

Section 2 amends section 1 of the Criminal Justice (Community Service) Act 1983 (“Principal Act”) which defines certain terms used in that Act.

Section 3 amends section 3 of the Principal Act. Paragraph (a) amends the existing section 3(1). A new subsection (1)(a) to section 3 of the Principal Act will require a court, in circumstances where an offender has been convicted and the court is of the opinion that a sentence of imprisonment of up to six months would be appropriate, to consider as an alternative to that sentence the imposition of a community service order. In addition where the court is satisfied that the provisions of section 4 — conditions required for making a community service order — are met, the court may then make a community service order in respect of that offender.

Subsection 3(1)(b), as amended by this section, makes provision for cases where a sentence of more than six months would, in the opinion of the court, be appropriate. In such cases, the court may make a community service order in respect of an offender. In this instance, the court is not required to consider the making of a community service order but may nonetheless do so. This reflects the existing situation under the Criminal Justice (Community Service) Act 1983.

Section 3(b) of the Bill introduces three new subsections into section 3 of the Principal Act. Subsection (1B) requires a court, where it considers in a particular case that a community service order may be appropriate, to request the Probation Service to prepare an assessment report in respect of that offender. Subsection (1C) requires the assessment report to be furnished to the court within 28 days of the request. Subsection (1D) provides for an extension by

the court of this period of 28 days where there is good reason and it is in the interests of justice to do so.

Section 3(c) inserts subsection (2A) into section 3 of the Principal Act. This confirms that notwithstanding the provisions of the Act, a court may impose any other alternative to a sentence of imprisonment as may be available under any other enactment.

Section 3(d) inserts subsection (4) into section 3 of the Principal Act. This provision confirms that the term “imprisonment” as used in section 3 includes detention in Saint Patrick’s Institution or in a children detention school.

Section 4 amends section 4 of the Principal Act.

Section 4(a) amends the existing subsection (1) of section 4 of the Principal Act. It essentially re-states the conditions which must be met before a community service order may be imposed. In effect, these are that, having considered the circumstances of the offender and the assessment report prepared by the probation officer, the offender is a suitable person to perform work under such an order, arrangements can be made for the offender to perform such work and he or she consents to the making of the order.

Section 4(b) amends subsection 2(c) of section 4 of the Principal Act. The words “District Court” have been replaced by the word “court”. It is appropriate that the court which made the order, such as the Circuit Court, would have jurisdiction over any review of that order.

Section 5 amends section 6 of the Principal Act. In subsection (1) of section 6, the text is expanded to require a community service order to specify the district of residence, where made by the District Court, or the circuit of residence, where made by the Circuit Court, in which the offender will reside while performing the work under the order. Subsection (2) of section 6 has been amended to include a reference to the judge of the Circuit Court in subparagraph (2)(a) and to the Director of the Probation Service in subparagraph 2(b).

Section 6(a) amends section 7 of the Principal Act and requires an offender in respect of whom an order is made to report to a relevant officer as directed by or on behalf of the Director of the Probation Service. *Section 6(b)* amends section 7(5) of the Principal Act and confirms that prosecutions under section 7(4), for failure to comply with a requirement of section 7(1) of the Principal Act, may be taken by a probation officer.

Section 7 amends section 9 of the Principal Act by substituting the word “court” for “District Court”. Section 9 provides for applications to court to extend the time for performance of work under the order. This amendment will allow orders made by higher courts to be varied by that court to the extent permitted by section 9.

Section 8 amends section 10 of the Principal Act which provides for change of residence by the offender. It includes references to circuit of residence arising from orders made by the Circuit Court. A new subsection (2) requires copies of such amended orders to be sent to the judge of the district court of residence, as amended, the judge of the circuit court of residence assigned to the circuit of residence, as so amended, and to the Director of Probation Service. The latter will be required to give or cause a copy of the amended order to be given to the offender.

Section 9 amends subsection (1) of section 11 of the Principal Act. Section 11 allows for the revocation of community service orders on application by an offender or a relevant officer. In subsection (1), “relevant officer” has been amended to read “probation officer”. Subparagraphs (a) and (b) have also been amended to include references to the Circuit Court as well as the District Court.

Section 10 amends section 12 of the Principal Act which sets out the jurisdiction of the District and Circuit Courts. The jurisdiction vested in the Circuit Court as set out in section 12(1) of the Principal Act has been expanded to reflect the amendments introduced in the earlier provisions of this Bill.

Section 11 amends section 13 of the Principal Act and substitutes the word “court” for “District Court” in that section. This amendment ensures the Circuit Court has the same power to summon or order arrest as the District Court under the Act.

Section 12 confirms that what has previously been known as the Probation and Welfare Service is now known as the Probation Service. Equally, probation and welfare officers are probation officers and the Director of the Probation and Welfare Service is now the Director of the Probation Service.

Section 13 provides for the short title, collective citation and commencement of the Act.

Financial Implications

There will be no additional costs in implementing this Bill. The management of the expected increase in community service orders will be met from existing resources within the Probation Service.

It is envisaged that there will be savings for the exchequer in the medium to long term as greater use is made of the more cost effective community service scheme over imprisonment.

*An Roinn Dlí agus Cirt agus Athchóirithe Dlí,
Eanáir, 2011.*