

Tanzania

Community Service Act, 2002

Chapter 291

Legislation as at 31 July 2002

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Chapter 291

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An Act to make provisions for the introduction and regulation of community service on offenders in certain cases, and for connected and incidental matters.

Part I – Preliminary provisions (ss. 1-2)

1. Short title and commencement

This Act may be cited as the Community Service Act and shall come into operation on such date as the Minister may, by notice in the *Gazette* appoint.

2. Interpretation

In this Act, unless the context otherwise requires—

"**community service**" means a program managed by Community Service Committees under the provisions of this Act;

"**community service order**" means an order made under section 3 of this Act;

"**community service officer**" means a community service officer within the meaning of section 12 of this Act;

"**court**" means unless the context otherwise requires, the court which made a community service order and includes a court within whose jurisdiction an offender may be residing while serving under a community service order;

"**Minister**" means, unless otherwise the context requires, the Minister for the time being responsible for prisons;

"**National Committee**" means the National Community Service Orders Committee established under section 7 of this Act;

"**National Co-ordinator**" means the National Community Service Order Co-ordinator appointed under section 10 of this Act;

"**offender**" means a person convicted and sentenced by a court for an offence under any written law;

"**supervising officer**" means an officer appointed under section 13 of this Act to supervise an offender performing community service under this Act.

Part II – Community service orders (ss. 3-6)

3. Community service orders

- (1) Where any person is convicted of an offence punishable by—
 - (a) imprisonment for a term not exceeding three years, with or without the option of a fine; or
 - (b) imprisonment for a term exceeding three years but for which the court determines a term of imprisonment for three years or less, with or without the option of a fine, to be appropriate,the court may, subject to this Act, make a community service order requiring the offender to perform community service.
- (2) For the purposes of this section—
 - (a) "community service" shall comprise unpaid public work within a community, for the benefit of that community, for a period to be fixed by the court but not exceeding the term of imprisonment for which the court would have sentenced the offender;
 - (b) "public work" shall include but not be limited to—
 - (i) construction or maintenance of public roads or roads of access;
 - (ii) afforestation works;
 - (iii) environmental conservation and enhancement works;
 - (iv) projects for water conservation, management or distribution and supply;
 - (v) maintenance work in public schools, hospitals and other public social service amenities;
 - (vi) work of any nature of a foster home or orphanage;
 - (vii) general cleaning and related activities;
 - (viii) rendering specialist or professional services in the community and for the benefit of the community;
 - (ix) other manual works as may be approved from time to time.
- (3) The nature or type of public work referred to in subsection (2) above shall, in any particular case, be determined by the court after consultation with the Community Service Orders Committee.
- (4) Where a court determines that a community service order should be made, it may, before making the order, direct a community service officer to conduct an inquiry into the circumstances of the case and of the offender and report the findings to the court.
- (5) An inquiry under subsection (4) shall be conducted in such manner and the report shall be in such form and cover such matters as may be prescribed.
- (6) A court shall not make an order under this section in respect of an offender unless the offender is present and the court is satisfied—
 - (a) that the offender consents to the order being made;
 - (b) that adequate arrangements exist for the execution of the order; and
 - (c) after considering the report made under subsection (4) and, where necessary, after hearing the community service officer, that the offender is a suitable person to perform community service under the order.

- (7) Where a court makes an order under this section in respect of two or more offences committed by the same offender, the court may direct that the period of community service specified in any of those orders shall be concurrent with or in addition to that specified in any other order.
- (8) The court which makes a community service order shall forthwith give copies of the order to the community service officer of the area where the offender resides or will reside during the period of the order and the community service officer shall give a copy of the order each to the offender and to the supervising officer.
- (9) Before making an order under this section, the court sentencing an offender shall explain to the offender in a language that he understands—
 - (a) the purpose and effect of the order and in particular, his obligations under section 4;
 - (b) the consequences specified in section 5 for failure to comply with the order or with any of the requirements of that section; and
 - (c) the powers of the court under section 6 to review the order on application either by the offender or of a community service officer.
- (10) Where the court considers it necessary for effective execution of the community service order it may direct the offender to enter into bond with or without sureties.

4. Obligations of the offender subject to community service order

- (1) A person who is subject to a community service order shall—
 - (a) report to the supervising officer specified in the order for assignment of work; and
 - (b) perform, for the period specified in the order, such work, at such times and at such place as he may be instructed by the supervising officer; and
 - (c) report to the supervising officer any change of address which may occur from time to time.
- (2) A supervising officer shall, as far as practicable, avoid giving instructions under this section which conflict with the offender's religious beliefs.

5. Breach of community service orders

If an offender commits a breach of or fails to comply with any of the conditions or requirements of a community service order, the court may, on the application of the area community service officer or supervising officer, issue summons to the offender to appear before the court at the time specified in the summons or issue a warrant of arrest for the offender to be arrested and brought before the court, as the case may be, and the court may, after hearing the offender, do any of the following—

- (a) caution the offender and require the offender to comply with the order; or
- (b) amend the order in such manner as may suit the circumstances of the case; or
- (c) revoke the order and impose any other sentence under the law as the court deems appropriate.

6. Review and variation of community service orders

- (1) Subject to subsection (4), an offender may seek a review of a community service order in any material point by informing the community service officer or supervising officer in writing of the particulars upon which such review is sought.
- (2) Where the review of an order is sought under subsection (1), the community service officer or supervising officer shall apply to the court in the prescribed form setting out the particulars specified under that section and the court may suitably review or vary the community service order.

- (3) Notwithstanding subsection (2) in special circumstances, the offender may make the application to the court without prior reference to the community service officer or the supervising officer and the community service officer or the supervising officer may apply for review for any justifiable reason.
- (4) Where the review or variation of an order under subsection (1) results in change of residence of the offender, the court varying the order shall inform the court having jurisdiction for the area where the offender intends to reside, and shall cause copies of the community service order to be presented to court within whose jurisdiction the offender will reside and to the community service officer of the area.
- (5) A review of an order under this section shall not be necessary where an offender changes residence without affecting a subsisting order or without leaving the jurisdiction of the court which made the order.

Part III – Management and enforcement of community orders (ss. 7-16)

7. Establishment of the National Community Service Orders Committee

- (1) There is hereby established the National Community Service Orders Committee in this Act referred to as "the National Committee" for Mainland Tanzania.
- (2) The National Committee shall consist of—
 - (a) a chairman who shall be a Judge of the High Court or any other person qualified in law and with sufficient knowledge in matters relating to criminal justice administration, appointed by the Minister;
 - (b) the Director of Public Prosecutions or his nominee;
 - (c) an appointee of the Permanent Secretary of the Ministry for the time being responsible for matters relating to regional administration;
 - (d) an appointee of the Permanent Secretary in the Ministry for the time being responsible for matters relating to labour;
 - (e) the Inspector General of Police or his nominee;
 - (f) the Principal Commissioner of Prisons or his nominee;
 - (g) Commissioner of Social Welfare;
 - (h) Commissioner of Labour;
 - (i) a nominee of the Tanganyika Law Society;
 - (j) two persons with training and experience in the administration of criminal justice system, one of whom shall have experience in the practice of criminology and penology; and
 - (k) the National Community Service Co-ordinator.
- (3) The National Committee may, at any time co-opt not more than three persons whose assistance or advice it requires or considers necessary in the discharge of its functions, to serve on the Committee for such period as it thinks fit.
- (4) The National Committee shall elect, from amongst its members, a vice-chairman who shall serve for one year but shall be eligible for re-election.
- (5) The tenure of office for the National Committee shall be for three years, save that its members shall be eligible for re-election to serve another term, provided that no member shall be eligible to serve for more than two consecutive terms.

- (6) The conduct and regulation of the business and affairs of the National Commission shall be as provided in this Act, but subject thereto, the Committee shall regulate its own procedure.

8. Duties of the National Committee

- (1) The functions of the National Committee shall be to—
- (a) advise the Minister generally on the proper implementation of the provisions of this Act;
 - (b) co-ordinate, direct and supervise the work of community service officers;
 - (c) collect and collate data on the operation of this Act for the purpose of improving the national policy on community service orders.
- (2) Without prejudice to subsection (1), the National Committee may, through the chairman advise on any need for enhanced application of the provisions relating to revision under the Criminal Procedure Act¹, so that the courts may make better use of community service orders in the appropriate cases.

9. Executive Committee

- (1) There shall be an executive committee of the National Committee which shall consist of—
- (a) the chairman of the National Committee who shall be the chairman;
 - (b) the vice-chairman of the National Committee;
 - (c) the Principal Commissioner of Prisons;
 - (d) the Commissioner of Social Welfare;
 - (e) the National Co-ordinator appointed under section 10 who shall be the secretary; and
 - (f) one other member appointed by the National Committee.
- (2) Subject to any directions which may be made by the National Committee, the functions of the executive committee shall be as specified in the First Schedule.

10. National Co-ordinator

- (1) There shall be a National Community Service Co-ordinator (in this Act referred to as "the National Co-ordinator" who shall be appointed by the Minister for a period of three years, but shall be eligible for re-appointment.
- (2) For avoidance of doubts, only persons with proven knowledge and experience in the administration of criminal justice and correctional matters shall be eligible for appointment as a National Co-ordinator.
- (3) The National Co-ordinator shall also be the Chief Community Service Officer and the Secretary to the National Committee and subject to specific directions which may be issued by the National Committee or the Executive Committee, shall be responsible for the maintenance of a register of community service orders.
- (4) The National Committee may delegate to the National Co-ordinator such of its functions under this Act as are necessary to enable him transact or perform the day to day business of the National Committee.
- (5) If the National Co-ordinator is absent or incapacitated for any reason, the Minister shall appoint a person to act in his place during such absence or incapacity, but the said appointee shall not be

¹ Cap. 20

eligible to act for a period exceeding six months, provided that nothing in this subsection shall preclude the Minister from appointing a new National Co-ordinator to fill the vacancy.

11. Regional, District, Ward and Village Community Service Orders Committee

The Minister shall, in consultation with National Committee, by order published in the *Gazette*, establish community service order committees at Regional, District, Ward and Village levels comprising such members and to perform such functions as may be prescribed in the order.

12. Community service officers

- (1) The probation officers appointed under the Probation of Offenders Act² shall be community service officers for the purposes of this Act.
- (2) The Minister may, in consultation with the National Committee, appoint such additional community service officers as may be necessary for the purposes of this Act.
- (3) A community service officer shall perform the duties specified in the Second Schedule.
- (4) A community service officer other than a public officer shall receive such remuneration for services rendered under this Act as the Minister, after consultation with the National Committee and the Minister for the time being responsible for Public Service shall determine.

13. Supervising officers

For the purposes of supervising offenders under this Act the court shall, in consultation with the relevant Community Service Orders Committee, appoint supervising officers and the supervising officer may be appointed for several offenders.

14. Regulations

- (1) The Minister in consultation with the National Committee, may make regulations generally for the better carrying out of the purposes of this Act and in particular but without prejudice to the generality of the foregoing power, such regulations may provide for—
 - (a) the procedure for releasing offenders on community service and stipulate for sanctions where there is breach of the procedures;
 - (b) the procedure for monitoring and supervising offenders on community service;
 - (c) the constitutional and duties of community offenders on community service;
 - (d) any question or matter relevant to the appointment of any person for purposes of supervising offenders under this Act;
 - (e) any other matter or thing related to and in furtherance of the provisions and objects of this Act.

15. Liability of members of Community Service Orders Committees and other officers

Save as may be prescribed by any other law, no act or thing done or omitted to be done by any member of any of the Community Service Orders Committees or any other person empowered to perform any function under this Act, render such member or other person personally liable for such act or omission.

16. Offences

Any person who wilfully interferes with the administration of the community service system or who contravenes the provisions of this Act, commits an offence and shall upon conviction be liable to a fine not

² Cap. 247

exceeding five hundred thousand shillings or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

First Schedule (Section 9(2))

Executive Committee

1. Functions

The Executive Committee shall be responsible for—

- (a) the supervision of the day to day running of the secretariat;
- (b) the collection, storage and dissemination of data relating to the implementation of community service orders;
- (c) transmitting to and advising the community service orders committees on the policies formulated by the National Committee;
- (d) undertaking educational activities aimed at sensitising members of the public and criminal justice agencies on the role and purpose of community service orders;
- (e) co-ordinating with other agencies on matters relating to and beneficial to community service; and
- (f) any other duties that may be as assigned to it by the National Committee from time to time.

2. Meetings

- (a) The Committee shall have power to regulate and determine its own procedure and the quorum at its meetings;
- (b) subject to any requirement as to quorum, the Committee may act notwithstanding any vacancy among its members;
- (c) the Committee shall meet at least 4 times a year;
- (d) the Committee may in its discretion invite any person who is not a member to attend any of its meetings, but such person shall not take part in decision making.

Second Schedule (Section 12(3))

Duties of Community Service Officers

Community Service Officers shall perform the following duties—

- (a) identify suitable work placements;
- (b) oversee the work and progress of offenders;
- (c) ensure that community service orders are complied with and that the scheme works smoothly;
- (d) apply to the court for review of order;
- (e) facilitate or promote reconciliation of offenders and the community;
- (f) ensure that safety conditions are satisfactory for both the community and the offenders serving under community service orders;
- (g) guard against discriminatory practices in dealing with offenders;
- (h) maintain confidentiality of information on or relating to offenders;
- (i) undertake counselling of offenders for rehabilitation and liaise with any other person or organisations of persons dealing with similar problems;

- (j) keep an up-to-date record of offender's performance and appraisal of the same;
- (k) submit periodic reports to appropriate or relevant Community Service Orders Committees and the Co-ordinator in respect of offenders;
- (l) provide pre-sentence report to the court; and
- (m) co-ordinate the activities of the community service orders.