



Australian Capital Territory

Supervision of Offenders (Community Service Orders) Act 1985 No 10

Republication No 3

Republication date: 8 February 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Supervision of Offenders (Community Service Orders) Act 1985* as in force on 8 February 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
12 September 2001



Australian Capital Territory

Supervision of Offenders (Community Service Orders) Act 1985

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12 September 2001



Australian Capital Territory

Supervision of Offenders (Community Service Orders) Act 1985

An Act relating to the supervision of persons in respect of whom
community service orders have been made

1 Short title

This Act may be cited as the *Supervision of Offenders (Community Service Orders) Act 1985*.

3 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

community corrections officer means a community corrections officer under section 4.

community service order means an order made by a court under the Crimes Act, section 408.

Crimes Act means the *Crimes Act 1900*.

offender means a person in respect of whom a community service order is in force.

supervisor means a supervisor under section 5.

4 Community corrections officers

- (1) There may be 1 or more community corrections officers for this Act and the Crimes Act, part 19.
- (2) The chief executive shall create and maintain 1 or more offices in the public service the duties of which include the performance of the functions of a community corrections officer.
- (3) A community corrections officer shall be any public servant for the time being performing the duties of a public service office referred to in subsection (2).

5 Supervisors

- (1) There may be 1 or more supervisors for this Act and the Crimes Act, part 19.
- (2) The chief executive shall create and maintain 1 or more offices in the public service the duties of which include performing the functions of a supervisor.
- (3) A supervisor is any public servant for the time being performing the duties of a public service office referred to in subsection (2).

6 Performance and supervision of work

- (1) Subject to this section, a community corrections officer may give directions to an offender with regard to the performance of work by the offender under the relevant community service order or to the conduct of the offender while doing that work.
- (2) The work that an offender may be required to perform under a community service order shall be of a nature that is useful to the community.
- (3) Before giving directions to an offender under subsection (1), a community corrections officer shall consult the offender in relation to the nature of the work to be performed by the offender under the relevant community service order.
- (4) When giving directions to an offender under subsection (1), a community corrections officer shall—
 - (a) take into account the religious beliefs of the offender; and
 - (b) take into account any matters raised by the offender in the course of consultation under subsection (3); and
 - (c) as far as practicable, avoid any interference with the offender's normal work or attendance at an educational establishment.
- (5) Where a community corrections officer has directed an offender to work under the supervision of a supervisor, the supervisor shall, as

far as practicable, ensure that the offender works under the relevant community service order and in accordance with any directions given to the offender by the community corrections officer.

- (6) A community corrections officer shall not direct an offender to work under the supervision of a supervisor who would in any way, other than as a member of the community or as a member of a group within the community, benefit by the work to be done by the offender under the relevant community service order.
- (7) A supervisor may, and shall when requested to do so by the relevant community corrections officer, report to that officer on any matter relating to—
 - (a) the performance of work under the relevant community service order by an offender who has been placed under the supervision of the supervisor; and
 - (b) the conduct of the offender while doing that work.

7 Periods in which work to be performed

- (1) Subject to this section, an offender shall be taken to be complying with a community service order if he or she works according to directions given by a community corrections officer under section 6 for a period of 8 consecutive hours on 1 day in each week until he or she has worked the number of hours specified in the relevant community service order.
- (2) For subsection (1), 1 rest period not exceeding 45 minutes and 2 other rest periods each not exceeding 10 minutes taken by an offender during the period of 8 consecutive hours referred to in that subsection shall be taken to have been time spent working under the relevant community service order.
- (3) A community corrections officer shall excuse an offender from working for any period during which the offender would, but for this subsection, have been required to work under the relevant community service order if—

- (a) the offender produces or causes to be produced to the officer a certificate by a duly qualified medical practitioner to the effect that the offender is, because of his or her illness or injury, unable to work for that period; or
 - (b) for any other reason, it is, in the opinion of the officer, impracticable or unreasonable that the offender be required to work for that period.
- (4) Where an offender is excused under subsection (3) from work for a period, that period shall not be taken to have been worked by the offender under the relevant community service order.

8 Transport for offender

- (1) Where a community corrections officer is satisfied that suitable transport is not available to convey an offender to or from the place where he or she has been directed to report for work, he or she may provide the offender with transport to or from that place or for any part of the journey to or from that place.
- (2) Where an offender, in accordance with the directions of a community corrections officer, reports to a supervisor for work and is then transported to a place of work, the time taken to transport him or her to and from the place of work shall be taken to be part of the period of work.

9 Cessation of work

- (1) Where, on any day, an offender has commenced to perform work under a community service order and, as a result of inclement weather, the illness of, or injury to, the offender or for any other reason, it becomes impracticable or unreasonable that the offender be required to continue to work, the supervisor shall instruct the offender to cease work for the rest of that day or for such period as the supervisor considers reasonable in the circumstances.
- (2) Any period during which an offender did not work as the result of an instruction given by a supervisor under subsection (1) shall be taken

to have been a period during which the offender worked under the relevant community service order.

10 Compensation

(1) In this section:

Compensation Act means the *Workers Compensation Act 1951*.

overtime has the same meaning as in the Compensation Act.

(2) While an offender is working under a community service order, the Compensation Act applies in relation to the offender as if—

(a) the offender, in so working, were employed by the Territory under a contract of service; and

(b) Compensation Act, section 6 (1), definition of *worker*, paragraphs (b) and (c) were omitted; and

(c) for the Compensation Act, schedule 1, clause 1 (c) (i) there were substituted the following subparagraph:

‘(i) of the amount referred to in paragraph (b) (i); or’; and

(d) Compensation Act, schedule 1, clause 2 (b) (i) and (ii) were omitted.

(3) Notwithstanding the Compensation Act, schedule 1, clause 1A, for the application of that Act in accordance with subsection (2), the prescribed amount applicable to an offender in respect of a week, for that schedule, clause 1 (b) is—

(a) in the case of an offender who, immediately before the day on which the liability of the Territory under the Compensation Act to pay compensation to or in respect of him or her arose—

(i) was carrying on a business or profession on his or her own account; or

(ii) was unemployed and was not carrying on a business or profession on his or her own account but who, at any time

during the period of 12 months ending immediately before the day on which that liability arose, was employed or was carrying on a business or profession on his or her own account;

the amount calculated by dividing by 52 the amount that is equal to the income of the offender during the period of 12 months ending immediately before the day on which that liability arose;

- (b) in the case of an offender who was unemployed immediately before the day on which the liability of the Territory under the Compensation Act to pay compensation to or in respect of him or her arose, not being an offender referred to in paragraph (a)—nil; and
 - (c) in any other case—an amount equal to the income of the offender in respect of the period of 7 days ending immediately before the day on which the liability of the Territory under the Compensation Act to pay compensation to or in respect of him or her arose.
- (4) A reference in subsection (3) (c) to *income*, in relation to an offender, does not include a reference to—
- (a) a payment in respect of overtime; or
 - (b) an allowance that is intermittent or is payable in respect of special expenses incurred or likely to be incurred by the offender; or
 - (c) where the offender had more than 1 occupation during the period of 7 days referred to in that paragraph—income derived by him or her from an occupation other than his or her principal occupation.
- (5) Where—
- (a) the Territory would, but for this subsection, be liable under the Compensation Act to pay an amount of compensation to, or in

respect of, an offender in relation to a period, being the whole or a part of a period during which the offender is totally incapacitated for work; and

- (b) a person who is an employer of the offender is liable, by reason of the offender's total incapacity for work, to make a payment to the offender by way of salary or wages in relation to that firstmentioned period;

the Territory shall not be liable to pay that amount under the Compensation Act but shall pay to the employer so much of that amount as does not exceed the amount payable to the offender by the employer and the balance (if any) of that amount shall be taken to be compensation payable by the Territory under the Compensation Act to or in respect of the offender in relation to that firstmentioned period.

11 Certificate of discharge

- (1) Where a person has discharged a community service order that was in force in respect of him or her, the Minister shall, on application by the person, cause a certificate to the effect that the offender has discharged the order to be issued to him or her.
- (2) For subsection (1), an offender shall be taken to have discharged a community service order if he or she has worked, or is, under this Act, to be taken to have worked, under the order for the number of hours specified in the order.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
o = order	sub = substituted
om = omitted/repealed	SL = Subordinate Law
	<u>underlining</u> = whole or part not commenced

Endnotes

3 Legislation history

3 Legislation history

The *Supervision of Offenders (Community Service Orders) Act 1985* was originally the *Supervision of Offenders (Community Service Orders) Ordinance 1985*. It became an ACT Act on self-government (11 May 1989).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before self-government

Supervision of Offenders (Community Service Orders) Act 1985 No 10

notified 8 March 1985

commenced 12 August 1985 (s 2 and Cwlth Gaz 1985 No S313)

as amended by

Supervision of Offenders (Community Service Orders) (Amendment) Ordinance 1985 No 64

notified 12 December 1985

commenced 12 December 1985

Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1

notified 10 May 1989 (Cwlth Gaz 1989 No S164)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and see Gaz 1989 No S164)

Legislation after self-government

Workers' Compensation (Consequential Amendments) Act 1991 No 106 sch

notified 15 January 1992 (Gaz 1992 No S3)

s 1, s 2 commenced 15 January 1992 (s 2 (1))

sch commenced 22 January 1992 (s 2 (2) and Gaz 1992 No S9)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1

notified 15 December 1994 (Gaz 1994 No S280)

s 1, s 2 commenced 15 December 1994 (s 2 (1))

sch pt 1 commenced 15 December 1994 (s 2 (2)) and Gaz 1994 No S293)

Legislation (Consequential Amendments) Act 2001 No 44 pt 374

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 374 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

4 Amendment history**Commencement**

s 2 om 2001 No 44 amdt 1.3956

Definitions for Act

s 3 def **authorised officer** om 1994 No 97 sch pt 1
 def **community correction officer** ins 1994 No 97 sch pt 1
 def **Crimes Act** sub 1994 No 97 sch pt 1
 def **supervisor** sub 1994 No 97 sch pt 1

Community corrections officers

s 4 am 1989 No 38 sch 1
 sub 1994 No 97 sch pt 1

Supervisors

s 5 sub 1994 No 97 sch pt 1

Performance and supervision of work

s 6 am 1985 No 64 s 2; 1994 No 97 sch pt 1; ss and pars renum R3 LA

Periods in which work to be performed

s 7 am 1994 No 97 sch pt 1

Transport for offender

s 8 am 1994 No 97 sch pt 1

Compensation

s 10 am 1989 No 38 sch 1; 1991 No 106 sch

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Republication No	Amendments to	Republication date
1	Ord 1989 No 38	31 August 1991
2	Act 1994 No 97	31 December 1997

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

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