

AUSTRALIAN CAPITAL TERRITORY

Supervision of Offenders (Community Service Orders) Ordinance 1985

No. 10 of 1985

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 22 February 1985.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLES
Minister of State for Territories

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

Short title

1. This Ordinance may be cited as the *Supervision of Offenders (Community Service Orders) Ordinance 1985*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories by notice in the *Gazette*.

Interpretation

3. In this Ordinance, unless the contrary intention appears—

“authorized officer” means a person appointed under section 4;

“community service order” means an order made by a court pursuant to section 556G of the Crimes Act;

“offender” means a person in respect of whom a community service order is in force;

“supervisor” means a person appointed under section 5;

“the Crimes Act” means the Crimes Act, 1900 of the State of New South Wales in its application to the Territory.

Authorized officers

4. (1) The Minister may appoint such persons as he considers necessary as authorized officers for the purposes of this Ordinance and of Part XVA of the Crimes Act.

(2) A person is not eligible for appointment as an authorized officer unless that person is an officer or employee within the meaning of the *Public Service Act 1922*.

Supervisors

5. The Minister may appoint such persons as he considers necessary as supervisors for the purposes of this Ordinance and of Part XVA of the Crimes Act.

Performance and supervision of work

6. (1) Subject to this section, an authorized officer may give directions to an offender with regard to the performance of work by the offender pursuant to 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) When giving directions to an offender pursuant to sub-section (1), an authorized officer shall, as far as practicable—

- (a) take into account the religious beliefs of the offender; and
- (b) avoid any interference with the offender’s normal work or attendance at an educational establishment.

(4) Where an authorized 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 pursuant to the relevant community service order and in accordance with any direction given to the offender by the authorized officer.

(5) An authorized 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 pursuant to the relevant community service order.

(6) A supervisor may, and shall when requested to do so by the relevant authorized 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.

Periods in which work to be performed

7. (1) Subject to this section, an offender shall be taken to be complying with a community service order if he works according to directions given by an authorized officer under section 6 for a period of 8 consecutive hours on one day in each week until he has worked the number of hours specified in the relevant community service order.

(2) For the purposes of sub-section (1), one 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 sub-section shall be taken to have been time spent working pursuant to the relevant community service order.

(3) An authorized officer shall excuse an offender from working for any period during which the offender would, but for this sub-section, have been required to work pursuant to the relevant community service order if—

- (a) the offender produces or causes to be produced to the authorized officer a certificate by a duly qualified medical practitioner to the effect that the offender is, because of his illness or injury, unable to work for that period; or
- (b) for any other reason, it is, in the opinion of the authorized officer, impracticable or unreasonable that the offender be required to work for that period.

(4) Where an offender is excused under sub-section (3) from work for a period, that period shall not be taken to have been worked by the offender pursuant to the relevant community service order.

Transport for offender

8. (1) Where an authorized officer is satisfied that suitable transport is not available to convey an offender to or from the place where he has been directed to report for work, he 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 an authorized officer, reports to a supervisor for work and is then transported to a place of work, the time taken to transport him to and from the place of work shall be taken to be part of the period of work.

Cessation of work

9. (1) Where, on any day, an offender has commenced to perform work pursuant to 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 sub-section (1) shall be taken to have been a period during which the offender worked pursuant to the relevant community service order.

Compensation

10. (1) In this section—

“Compensation Ordinance” means the *Workmen’s Compensation Ordinance 1951*;

“overtime” has the same meaning as in the Compensation Ordinance.

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

- (a) the offender, in so working, were employed by the Commonwealth under a contract of service;
- (b) paragraph (d) of the definition of “workman” in sub-section 6 (1) of the Compensation Ordinance were omitted;

- (c) for sub-paragraph 1 (c) (i) of the First Schedule to the Compensation Ordinance there were substituted the following sub-paragraph:

“(i) of an amount equal to the sum first mentioned in sub-paragraph (b); or”; and

- (d) sub-paragraphs 2 (b) (i) and (ii) of the First Schedule to the Compensation Ordinance were omitted.

(3) Notwithstanding the provisions of paragraph 1A in the First Schedule to the Compensation Ordinance, for the purposes of the application of that Ordinance in accordance with sub-section (2), the prescribed amount applicable to an offender in respect of a week, for the purposes of sub-paragraph 1 (b) of that Schedule, is—

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

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

(ii) was unemployed and was not carrying on a business or profession on his 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 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 Commonwealth under the Compensation Ordinance to pay compensation to or in respect of him 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 Commonwealth under the Compensation Ordinance to pay compensation to or in respect of him arose.

(4) A reference in paragraph (3) (c) to income, in relation to an offender, shall not be read as including a reference to—

- (a) a payment in respect of overtime;

- (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 one occupation during the period of 7 days referred to in that paragraph—income derived by him from an occupation other than his principal occupation.

(5) Where—

- (a) the Commonwealth would, but for this sub-section, be liable under the Compensation Ordinance 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 first-mentioned period,

the Commonwealth shall not be liable to pay that amount under the Compensation Ordinance 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 Commonwealth under the Compensation Ordinance to or in respect of the offender in relation to that first-mentioned period.

Certificate of discharge

11. (1) Where a person has discharged a community service order that was in force in respect of him, 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.

(2) For the purposes of sub-section (1), an offender shall be taken to have discharged a community service order if he has worked, or is, under this Ordinance, to be taken to have worked, pursuant to the order for the number of hours specified in the order.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 8 March 1985.