

STATUTORY INSTRUMENTS SUPPLEMENT

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STATUTORY INSTRUMENTS

2001 No. 55.

THE COMMUNITY SERVICE REGULATIONS, 2001.

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STATUTORY INSTRUMENTS

2001 No. 55.

The Community Service Regulations, 2001.

(Under section 12 of Community Service Act, 2000,
Act No. 5 of 2000)

IN EXERCISE of the powers conferred upon the Minister responsible for internal affairs by section 12 of Community Service Act 2000, and after consultation with the National Committee on Community Service and District Council Executive Committees, these Regulations and Guidelines are made and issued this 16th day of July, 2001.

PART I—PRELIMINARY.

1. These Regulations may be cited as the Community Service Regulations, 2001.

2. (1) In these Regulations, unless the context otherwise requires—

“Act” means the Community Service Act, 2000;

“district committee” means the district community service committee established under section 11 (9) of the Act;

“District Community Service Coordinator” means the District Community Service Coordinator referred to in regulation 10 of these Regulations;

“National Committee” means the National Committee on Community Service established by section 11 of the Act;

“National Secretariat” means the Secretariat established by regulation 3 of these Regulations;

“placement institution” means a place or organisation where the offender is sent to perform the community service order;

“Programme” means the Community Service Programme;

“Secretary” means the Secretary to the National Community Service Committee appointed under section 11(4) of the Act.

(2) Nothing in these Regulations shall override any obligation imposed on a person by the Act or any other law applicable.

(3) Where there is a conflict between these Regulations and any earlier Regulations, instructions or circular, these Regulations shall prevail.

PART II—THE INSTITUTION ADMINISTERING COMMUNITY SERVICE.

3. There shall be a National Community Service Secretariat, which shall be the body responsible for the implementation of the Community Service Programme on behalf of the National Committee.

4. The National Secretariat shall have out the following duties—

- (a) to carry out the day to day functions of the National Committee;
- (b) to keep assets, records and other properties of the National Committee;
- (c) to carry out any other duties assigned to it by the National Committee.

5. The Secretary shall—

- (a) be responsible for giving effect to the policy decisions of the National Committee and to supervise on behalf of the National Committee the day-to-day management of the affairs of the National Secretariat including the control of any staff that may be appointed by the National Committee;
- (b) be responsible for arranging the business for and recording and keeping the minutes of all decisions and proceedings of the National Committee at its meetings including those of its sub committees;
- (c) keep in safe custody the records, seal and other property of the National Committee;
and
- (d) perform any other duties assigned by the National Committee.

6. The National Committee shall have such officers and employees as it deems necessary for the efficient and effective performance of its functions under the Act who shall hold office on such terms and conditions as the National Committee shall determine.

7. There shall be a district community service committee in every district implementing the Programme as provided for by section 11(9) of the Act.

8. A district committee shall consist of the following—

- (a) the Senior Magistrate in the district—Chairperson;
- (b) the District Probation Officer—Coordinator/ Secretary;
- (c) the District Chairperson or a representative;
- (d) the District Police Commander or a representative;
- (e) the Chief Administrative Officer or a representative;
- (f) the Resident District Commissioner or a representative;
- (g) a representative of the Uganda Prisons Service in the district;
- (h) the Executive Officer of court or a representative, namely the supervisor or record clerk;
- (i) the Town Clerk or a representative;
- (j) a representative of non-governmental organisations in the district;
- (k) a Resident State Attorney or a representative;
- (l) two representatives from the public appointed by the Minister.

9. The functions of a district committee are—

- (a) to embark on activities and public campaigns that would make the Programme popular and acceptable in the area of its jurisdiction;
- (b) to supervise, monitor and evaluate the implementation of community service in the district;
- (c) to visit institutions to monitor the performance of offenders;
- (d) to advise the National Committee on the failures and progress of the Programme;
- (e) to submit monthly reports to the National Committee on community service implementation;
- (f) to identify placement institutions;
- (g) to carry out such other activities as may be necessary for the better implementation of the Programme in the district.

(2) A district committee shall hold monthly meetings.

(3) A record shall be kept of the minutes of all meetings of the district committee.

10. There shall be a District Community Service Coordinator who shall be the District Probation Officer and whose duty shall be to assist the district to carry out its community service activities.

11. The Clerk of the Court shall keep in a secure place an up-to-date register of offenders performing community service orders with details of such offenders, where the order is being performed, the supervising officer and any other matters incidental to the order.

12. The Court shall specify in the community service order the nature of work to be performed by the offender and that work shall be reasonable and not be beyond the capability, physical strength and actual ability of the offender.

13. The forms specified in the First Schedule to these Regulations may be used as appropriate for the purposes of community service under the Act.

PART III—GUIDELINES.

14. The guidelines specified in Part A of the Second Schedule to these Regulations shall guide courts and judicial officers in the performance of their functions regarding the making and operation of community service orders under the Act.

15. The guidelines specified in Part B of the Second Schedule to these Regulations shall guide probation officers in the performance of their functions regarding community service orders under the Act.

16. Guidelines specified in Part C of the Second Schedule to these Regulations shall guide supervising officers in the performance of their functions regarding community service orders under the Act.

17. The guidelines specified in Part D of the Second Schedule to these Regulations shall guide police officers in the performance of their functions regarding community service orders under the Act.

18. Part E of the Second Schedule to these Regulations shall constitute guidelines as to the categories of offences to be normally considered for the making of community service orders.

19. For the avoidance of doubt, the guidelines specified in the Second Schedule to these Regulations are not binding and are only intended to assist courts and officers concerned in the exercise of their functions relating to community service under the Act.

SCHEDULES.

FIRST SCHEDULE
FORMS

Regulation 13
CS1

THE REPUBLIC OF UGANDA

Community Service Programme

PROBATION OFFICER'S/COMMUNITY SERVICE OFFICER'S REPORT TO COURT

Court Case No.....

Police Ref. No.....

Name..... ID No.....

Sex..... Date of birth.....

Marital Status..... Next of Kin.....

Nationality..... Religion.....

Education.....

Occupation.....

Location.....

.....

.....

Offence.....Plea.....

Particulars of offence.....

.....

.....

.....
.....

Previous convictions.....

.....
.....

Remand/Bonded.....

CS1 (page 2)

Report

Circumstances of offence

Background of offender

Attitude of offender

Attitude of victim

Attitude of community

Recommendation

Proposed placement details

Signed..... Date.....

CS2

THE REPUBLIC OF UGANDA

Community Service Programme

WORK PLACEMENT CONFIRMATION

To be attached to Probation Officer's/Community Service Officer's Report to Court

This is to confirm that a place is available for the offender named below:

Name.....Age.....Sex.....

Address.....

.....

Occupation.....

Offence.....

Court.....

Name of Placement Institution.....

Address.....

.....

.....

Tel. No.....

Type of work available.....

.....

.....

Hours of work available.....

Area.....

Signed..... Date.....

Supervisor

CS3

THE REPUBLIC OF UGANDA

IN THECOURT AT.....

CRIMINAL CASE NO.OF.....

COMMUNITY SERVICE COMMITTAL ORDER No.

(Issued under sections 4(a) and 7(a) of the Community Service Act, 2000)

Whereas you.....have been convicted of the offence of.....contrary to section.....

And whereas the court has explained to you the terms of an intended order for community service which you have agreed to undertake in place of a sentence of imprisonment;

You are hereby ordered during a period of.....months/years to undertake.....hours of community work under the supervision of a supervising officer.

You will be supervised by.....of.....
(placement agency)

This means that if during the next.....months you fail to obey any of the provisions of this order, you will be brought before this court and may be sentenced for the offence.

The following are the conditions which you are ordered to obey:

1. You will present yourself for work as instructed in form CS4 attached.
2. You will co-operate with the supervisor by following his/her instructions.
3. In the event of any difficulty resulting from a change in your circumstances the supervising officer will inform the court for appropriate action.

Given under my hand and seal of the Court thisday
of.....at.....

.....Judge/Magistrate
CS4

THE REPUBLIC OF UGANDA

Community Service Programme

REPORTING INSTRUCTIONS TO OFFENDER
(Section 5(4) of Act)

These instructions should be given to the offender together with the Community Service Committal Order (CS3). Copies should be given to the supervising officer and probation officer.

NAME.....AGE.....
SEX.....ID NO.....
COURT FILE..... MARITAL STATUS.....
SERIAL NO.....DATE.....

You were today made subject to a community service order for hours, to be completed during a period of months/years.

This means that your total hours must be completed by

You are required to report to your supervising officer:

.....(name)
at.....
.....
on.....(date and time), for work assignment.

You will be required to work on the following hours and days of each week:

.....
.....

The nature of the work you will be required to undertake is as follows:

.....
.....

Signed (offender).....

Signed (Magistrate).....

Date.....

CS5

THE REPUBLIC OF UGANDA

Community Service Programme

PLACEMENT OF AN OFFENDER ON COMMUNITY SERVICE

To be completed by the Clerk to the Court and retained for recording purposes. A copy should be sent to the District Community Service Coordinator.

Name of offender.....CRB Number.....

Offence.....

Address of offender while performing Community Service:

.....
.....

Characteristics of the offender:

Sex.....Date of birth.....Marital status.....

Education.....Nationality.....

Usual occupation.....

Is he/she a first offender?.....

Is this his/her first Community Service Order.....

Name and address of Trial Judge/Magistrate:

Name.....

Address.....
.....

Telephone No.....Date of trial.....

Date on which the offender shall start.....

Date on which offender is expected to finish.....

Name and address of placement institution.....

.....
.....

Supervisor.....Telephone No.....

Signature.....Date.....

THE REPUBLIC OF UGANDA

Community Service Programme

CONFIRMATION OF ARRIVAL BY SUPERVISING OFFICER To

be completed and returned to the Probation Officer within 14 days

(Section 5 (3) of Act and Regulation 12)

Name..... Age.....

Sex..... ID No.

Court File..... Marital Status.....

Serial No. Date.....

Period Hours.....

Iof confirm that the above named offender reported as instructed to undertake community work and arrangements have been made for him/her to work as follows—

Work description.....

Materials and equipment to be used.....

Any protection provided as required by the work.....

Date of commencement.....

Working hours from.....to.....

General remarks.....

Signed (supervising officer) Date.....

Countersigned by the offender..... Date.....

THE REPUBLIC OF UGANDA

Community Service Programme

WORK RECORDING SHEET

This form should be used by the supervising officer to keep a record of every day which the offender is expected to work. A copy of this form should be given to the District Community Service Coordinator each month.

(Regulation 4 (b))

Probation Officer.....

Supervisor.....

Work site.....Type of work.....

Serial No.....Cr.C.No.....

Name of offender.....ID/No.....

Address

.....

This is a true record of hours worked

Supervisor's Signature..... Date

CS8

THE REPUBLIC OF UGANDA

Community Service Programme

APPLICATION FOR VARIATION OF ORDER BY SUPERVISING/ PROBATION OFFICER

A copy of this form should be sent to the probation officer when a change in circumstances requires a variation to the offender's pattern of work.

Name of offender.....Court Case No.....

Address.....

.....

Name of Institution.....

Address.....

.....

This is to request that the conditions of the Community Service Order imposed on the offender be varied as follows (e.g. change of residence of offender, change of working days, change of working hours)

.....

.....

.....

The reasons for this request are as follows:

.....

.....

.....

In the meantime the action I have taken is as follows (e.g. I have referred the case to the coordinator of the new district of residence, I have informally authorized the offender to change the day/times as follows...):

.....

.....

.....

I request that this matter be brought before the court as soon as possible.

Signed.....Date.....

CS9

THE REPUBLIC OF UGANDA

IN THECOURT AT.....

CRIMINAL CASE No.OF.....

APPLICATION FOR VARIATION OF COMMUNITY SERVICE ORDER BY OFFENDER

This form should be completed and submitted to the court with copies to the supervising officer and the Probation Officer.

WHEREAS a Community Service Order was issued on.....by this court to have.....(myself) placed under community service under the supervising officerand whereas circumstances have changed so as to make myself, the offender, unable to comply fully with the conditions imposed in the community service order—

Iapply to this court to vary or review the community service order made onand to impose new conditions which I am able to comply with/without suffering much hardship and inconvenience. The reasons for my inability to comply with the previous order are as follows—

.....
.....
.....
.....

Signed.....(offender) Date.....

CS10

THE REPUBLIC OF UGANDA

IN THECOURT AT.....

CRIMINAL CASE No.OF.....

COMMUNITY SERVICE VARIATION ORDER
(Section 8 of Act)

In the case of a change of residence by the offender a copy of this order should be forwarded to the new court of jurisdiction and to the former Probation Officer.

WHEREAS.....inCourt

Criminal Case No.....was placed on a Community Service Order on theday of.....and whereas

I am satisfied upon application of the supervising officer/probation officer/offender that the circumstances of the said offender.....have changed in the following

manner.....
.....

.....(change of residence or other change);

now therefore in exercise of the powers conferred upon me by section 8(3) of the Community Service Act, 2000 I do hereby order that the Community Service Order be varied by substituting the following terms and conditions (state any which apply):

The area/district shall be.....

The required hours/days of work shall be.....
.....

The placement institution shall be.....

The nature of the work shall be.....

The supervising officer shall be.....

Given under my hand and seal of the court this day of.....at
.....

.....Judge/ Magistrate
CS11

THE REPUBLIC OF UGANDA

IN THECOURT AT.....

CRIMINAL CASE No.OF.....

NOTICE TO OFFENDER OF VARIATION OF ORDER

To be given to offender to inform him/her of any changes to the order.

To
.....

Take notice that the following changes have been made to your Community Service Order (state any which apply):

The area/district is now.....

The required hours/days of work are now.....
.....

The placement institution is now.....

The nature of your work shall now be.....
.....

Your supervising officer shall now be.....

Dated this day of

.....
Judge/Magistrate

Order explained, understood and acknowledged

by.....
(Offender)

CS12

THE REPUBLIC OF UGANDA

Community Service Programme

REPORT OF DEFAULT/BREACH OF ORDER
(Section 6 of the Act)

To be completed by the supervising officer and forwarded to the Probation Officer for the attention of the court.

Name of offender.....ID No.....

Address.....
.....

Court Case No.....Sex.....

Serial No.....Date.....

Period.....Hours.....

Name of institution.....

Address.....
.....

This is to advise that the above named offender has defaulted on his/her community service order for the following reasons (e.g. failed to report to work, persistently late for work, failed to perform work properly):

.....
.....
.....
.....

The action I have taken so far is as follows (e.g. I have warned him/her that the matter is being referred to the court, I have continued to give him/her work, I have advised the community service officer):

.....
.....
.....

I request that the matter be brought before the court with the community service order being cancelled if the court sees fit.

Signed.....(Supervising Officer) Date.....

CS13

THE REPUBLIC OF UGANDA

IN THECOURT AT.....
CRIMINAL CASE No.OF..... BREACH
OF ORDER–APPLICATION FOR SUMMONS/WARRANT
(Section 6 of Community Service Act 2000)

This application to be made by the Probation Officer, supported by the Report of Default prepared by the supervising officer (Form CS12).

WHEREASof (details)was placed on Community Service by order ofcourt made under the Community Service Act, 2000 for a period of.....hrs.....

AND WHEREAS the said offender has breached the community service order:

- (i) I.....hereby make oath and say as follows—
(Probation officer)

That the offenderhas failed to observe the conditions of the community service order, in that he/she.....
.....
.....

- (ii) Therefore I,apply that summons/warrant of arrest be issued in respect of the offender.....to show cause why the community service order should not be cancelled and alternative sentence be granted or any other order be made in substitution for the original order as the court may deem just.

SWORN before me.....Judge/ Magistrate

Date.....

CS14

THE REPUBLIC OF UGANDA

Community Service Programme

QUARTERLY CASE RETURN BY DISTRICT COORDINATOR
(Regulation 4 (b))

A copy of this form should be forwarded to the National Secretariat every three months together with a copy of form CS15 for each individual case.

District and Court.....

Return for the quarter ended.....

District Community Service Coordinator.....

1. Community Service Act 2000, Act No.5 of 2000

2. Police referrals made during the quarter

CS14 (page 2)

3. Court reports prepared during the quarter

Signed.....
District Community Service Coordinator

Date.....

CS15

The Republic of Uganda

Community Service Programme

INDIVIDUAL QUARTERLY CASE SUMMARY BY DISTRICT COORDINATOR
(Regulation 4(b))

This form is to be completed by the District Coordinator every three months for each case. A copy is to be forwarded to the National Secretariat together with form CS14.

Offender's nameAge.....

Serial No.....Court Case No.....

Offence.....contrary to section.....
Court.....Magistrate.....
Community service hours worked.....

- Case proceeding
 - Completed satisfactorily
 - Completed unsatisfactorily
 - Absconded
- (Strike out those which do not apply)

Further comments:

Signed.....
District Coordinator.

Date.....

CS16

THE REPUBLIC OF UGANDA

Community Service Programme

RECORD OF COMPLETION OF ORDER

This form must be completed by the supervising officer and must be sent without delay, at the completion or termination of the Community Service work by the offender, to the clerk of court of the sentencing court with a copy to the Probation Officer in whose district the Community Service work has been performed.

Name of offender.....ID No.....

Address.....

.....

Court Case No.....Sex.....

Serial No.....Offence.....

Name of institution.....

Address.....

.....

Commencement date of Community Service.....

Total number of hours offender was required to work.....

Total number of hours actually worked by offender.....

Date Community Service completed or terminated.....

Reason why community service ended: (Tick whichever is applicable)

- * Offender satisfactorily completed all hours of work stipulated by the court.
- * Offender committed further offences and was arrested by the police.
- * Order terminated by court as a result of breach.
- * Offender fell ill and was admitted to a clinic or hospital.
- * Offender was injured at the Institution and was admitted to a clinic or hospital.
- * Community Service was terminated for reasons other than those specified above. (state reasons overleaf)

Signed.....
Supervising Officer

Date.....

SECOND SCHEDULE

Regulation 14- to 18

GUIDELINES

PART A

GUIDELINES FOR COURTS AND JUDICIAL OFFICERS

1. Community Service sentence to minor offenders—

- (a) The effective sentence is 24 months of imprisonment, which is the usual punishment for misdemeanors.
In general terms, however, the target group comprises those who commit less serious offences.
- (b) On conviction the offender is offered the opportunity of community service instead of a sentence of imprisonment, which might otherwise have been passed upon the offender.

2. The pre-sentence report is required to provide the court with a clear appraisal of the offender's situation. However, the court may make further inquiries as the circumstance may be, in the following matters—

- (a) Fixed place abode
Whether the offender has an address which he/she has used for more than three months or so, either as the place for his work, or where he/she rented, or his/her urban or rural home.
- (b) Family
Whether the family of the offender remains entirely dependant on the offender for upkeep during the period of Community Service.
- (c) Employment
Whether the offender is employed and employment includes even those within the informal sector. The court may also find out whether the offender is likely to lose his/her employment if placed under community service orders. The Community Service Order should be flexible enough to allow the offender to continue with his/her employment.
- (d) The character of the offender
Consideration may be had to the following facts, that-

- (i) offender readily pleaded guilty
- (ii) offender is a first offender
- (iii) the offender has been on bail
- (iv) the offender is a minor or a senior citizen
- (v) general Consideration

The offender is a child if he/she is below 18 years of age. He/she may be a youthful offender if aged from 18 up to 25 years. A senior citizen is one above 60 years of age. Such offenders may be suitable for Community Service. In all these cases, imprisonment should be ordered as a last resort. Each situation should be considered on its own merits. Exceptional circumstances could render one to undergo Community Service. e.g. An offender at school or university, should have an order which fits in with school hours or holidays. A disabled offender should have his/her disability taken into account.

In general, female offenders suffer a great dislocation in their lives by imprisonment. They may often have no home to go back to, since their husbands may have re-married. Women without support and with young children need special care. It may not be easy however to provide for them, but perhaps work can be found near the court, or official buildings.

Apart from women, other offenders should not usually be given work near the court. Other disabled persons may need special provisions to cater for them.

- (e) The distance to the nearest institution

Where possible the distance to place for carrying out orders should be within walking distance.

- (f) The offender's reaction to the probation reports

Where an offender explains special circumstances the court may take them into account when designing the community service order as that may encourage and secure the offender's acceptance of the order.

3. Upon plea to the charge, if the offender pleads guilty, the court and prosecutor should ensure speedy completion of the proceedings. Remands should be avoided as that may cause a change in the plea. Bail could be considered at this stage.

Reconciliation with the victim through the prosecutor may also be necessary. This may well have happened at the police station. If there is a trial, there will be time to get in the reports.

4. The Clerk of Court is required to keep an up to date register of offenders performing Community Service at each institution. The magistrate should properly check this register at the end of each month to ensure accuracy and compliance.

5. The District Probation Officer Coordinator or whereas he/she is not available, the Community Development Officer or Clerk of Court must keep track of each Community Service Order and ensure that it is actually carried out and that forms of community service from the institution are returned to the court and thereafter forwarded to the National Coordinator at the Secretariat. Where the offender is in default by failing to appear at his/her work place, a criminal summons or a warrant of arrest whichever may cause immediate appearance of the offender, should be issued immediately.

7. The Court must specify in the Order the nature of work to be performed by the offender and such work should not be beyond the capability, physical strength or actual ability of the offender.

8. The placement institution must be willing to accept the offender and should have adequate and relevant work to be performed.

9. It shall be incumbent upon the Senior Magistrate and the District Community Service Coordinator to expand the Programme by approaching new institutions and encouraging the supervising officers of such institution to embrace the Programme additionally, they should engage in local discussions and address public gatherings. The supervising officer should also be encouraged to participate at the district committee meetings.

10. Any difficulties arising out of the implementation of the Act may be referred in the first instance to the National Coordinator. It should be noted that this schedule might not cover all situations that Magistrates may encounter. The Magistrate is encouraged to deal with such situations in the spirit of the Community Service Act, 2000, and the Regulations and to report the matter to the district committee.

11. The offender is one who has committed a “ non serious“ offence, usually in the range of misdemeanors and who is probably a first offender or a youthful offender or a person under a disability which may include women with children, or persons deformed, such as polio victims.

A second offender is not barred from benefiting as long as the first offence was trivial in nature, such as where the offender was caught up in a situation largely of self-defense.

12. (a) The offender must agree to carry out the community service order. Cases where an offender considers that he/she is not safe to be at large in the community should be treated with care. Therefore, where most offenders will probably opt for community service and not imprisonment, it should not be held against an offender if he/she opts for imprisonment.
- (b) There must be a place available at an institution in which the offender can serve. A register of all these information must be kept at the court house and updated regularly. This is to enable magistrates to be advised as to where vacancies exist and who the supervisor shall be.
- (c) There shall be a report to guide the court as to the background of the offender. The report may be sourced from various sources. The court may however seek further advice from—
- (i) The prosecutor; who should be prepared to give an opinion as to the suitability of an offender for community service as it is difficult to know from official documents whether an offender is a first offender or not. The prosecutor may well know of the fact that an offender has a previous conviction, or that the offender has a poor reputation, and this may be able to indicate the suitability or otherwise of community service for a particular person.
- (ii) The Probation Officer or Community Development Officer; who may be able to provide the court a report.
- (iii) The offender's advocate may be able to inform the court as to the background of an offender and special reasons why community service would be appropriate.

13. The basic grid is founded on the following facts—

- (a) 8 hours work per day for 5 days a week totaling to 40 hours of work per week.
- (b) 40 hours per week by 4 weeks per month totals to 160 hours per month.

- (c) 8 hours equals 1/3 of 24 hours a day in prison.
- (d) 40 hours equals 1/4 of 168 hours a week in prison.
- (e) 160 hours equals 1/4 of 720 hours a month in prison.
- (f) 160 hours equals 1-month community service 4 months in prison.
- (g) 320 hours equals 2 months community service 8 months in prison.
- (h) 480 hours equals 3 months community service 12 months in prison.
- (i) 640 hours equals 4 months community service 16 months in prison.
- (j) 800 hours equals 5 months community service 20 months in prison.
- (k) 960 hours equals 6 months community service 24 months in prison.

A magistrate however is not bound to make an order strictly in accordance with the grid. A reduction from the grid regime should normally be reflected in less imprisonment being ordered. Reasons for orders should be given. In addition, the magistrate should explain any case usually deserving community service, which the magistrate did not order.

The basis of the grid is usually extended to the calculation of imprisonment in subsequent courts. The magistrate in the subsequent court will calculate the length of prison sentence that would have been imposed had community service not been ordered and deduct any time served as community service. This presupposes that the magistrate in the subsequent court has decided not to continue with community service. But in accordance with the Act, the magistrate may consider the infringement of the terms of the order, trivial, and so may continue community service on or may impose a fine.

14. Community service may be ordered instead of the payment of a fine, which has been ordered as an alternative to imprisonment. The magistrate should follow the periods set out in section 192 of the Magistrate's Courts Act, 1970. The alternative imprisonment can be related to the grid above.

15. The normal working hours are 8 am to 5 pm including 1 hour for lunch and weekends. It may however be that in order to accommodate the offenders' employment or course of study, not every day is declared a non working day or national holidays are not working. It may also be that not a full eight hours work can reasonably be utilized to perform community service. The schedule of the time or days should be worked out so that the required number of hours may have to be lessened.

16. Where the inability of the offender is in question, the offender could be made to do community service either at the court itself or at the police station. Ordinarily, sentencing accused persons to do community service at either court or the police station should be avoided. The work at either place should be manual not clerical.

17. The offender should be matched to an appropriate institution. For example; a doctor should be made to do community service at a local clinic. It is not advisable for offenders to do clerical duties at the Magistrates' Court. Again magistrates are urged to exercise judicious discretion in choosing such placements.

18. Before sentencing an accused to do community service, the court should carefully explain what community service entails and what the alternative would be. The informed consent of the accused should be sought. If the accused does not consent, then community service should not be imposed.

19. Community Service orders must be correctly worded in order to avoid possible confusion or misinterpretation.

20. Before sentencing an accused person to do community service, there must be confirmation that the institution is willing and able to take the offender. A situation where some institutions have more offenders than they really need or where some institutions, which could benefit do not have such offenders must be avoided.

21. It is the responsibility of each court to ensure that the offender is properly supervised on a day-to-day basis. If any serious problems are encountered, the senior Magistrate must contact the National Coordinator immediately.

22. The court should ensure that the Probation Officer/ Community Development Officer or in his/her absence, the Community Development Officer/clerk of court actually submits forms of community service to the court. It is important that all district magistrates regularly check the records to ensure that work is done.

23. Any of the parties cited may apply to court for an order in any of the situations listed below—

(a) the offender—Where the order is difficult to carry out in some way;

(i) necessary change of address

(ii) health

(iii) problems with supervisors

(b) the supervisor—In case of default

(i) for Warning

(ii) variation of order, a fine

(iii) imprisonment

24. Where an accused is re-arrested having failed to complete his community service, the magistrate must undertake an inquiry into the default. If no good reason exists, the trial magistrate may sentence the accused to undergo a proportionate term of imprisonment. If the accused gives a good reason for his/her default, the magistrate in his/her discretion may order the accused to go back to the institution to complete the community service order.

25. The senior magistrate should ensure that all supervisors are provided with the supervising officers' guidelines. All magistrates should also familiarise themselves with the supervisors regulations in order to be able to give sound advise.

26. The senior magistrate is advised to visit the institutions, where possible to discuss the performance of the offender with the supervisors of institutions. Other members of the committee should also be encouraged to do the same. This could for example be done on the journey back from circuit.

PART B

GUIDELINES FOR PROBATION OFFICERS

1. A suspect, preferably a first offender, or a youthful offender, or one who has a disability, who commits a minor offence, prima facie qualifies for community service. Where the offender was convicted

of one previous offence, an order for community service may still be made for the second offence, if the first offence was trivial.

- (a) The Probation Officer is required to obtain from the police and other parties the following facts—
 - (i) where the offender lives, works, his/her age, whether he/she has been convicted before;
 - (ii) the health status, if suffering from any disability;
 - (iii) if he/she has any skills useful to the community;
 - (iv) whether there was any damage or harm caused to either side;
 - (v) whether he/she has a fixed place of abode;
 - (vi) the domestic situation and whether the offender has sole responsibility for dependants.
- (b) Safety of the victim, offender and the community

The Probation Officer should assess the safety of the victim and the community when considering recommending whether the offender could be reintegrated in the community by finding out the following—

- (i) what attitude the victim takes if the suspect admits to the offence;
- (ii) what attitude the victim takes to an offer of compensation or restitution in order to make amends;
- (iii) whether there is a relationship between the parties to encourage reconciliation in the family;
- (iv) whether there is any previous incident between the parties and whether the offence is not prevalent in the area;
- (v) whether there are any risks to the community if offender is awarded community service;
- (vi) whether there is any risk to law and order if the offender is awarded community service.
Such risk may include revenge to the person, family or property of an offender, or mob justice or harassment.

2. The Probation Officer, where available, will investigate the background of the offender and victim in their community and make a report, which will also be tendered to the court. The Probation Officer should also ensure that reconciliation occurs with the support of other actors in the criminal justice system. The police should alert and provide to the prosecutor any initial report containing the circumstances of the case, according to the police guidelines. The prosecutor then should peruse this report in order to consider whether community service should be supported in court. The magistrate's duty is to determine whether an offender could qualify for community service upon being furnished with reports by the Probation Officer and the prosecutor. The rights of the victims, witness, offender and the community must be respected. After the magistrate's own consideration of all the facts of the case, the magistrate will be able to decide what terms can be agreed by the offender and make a community service order.

3. The Probation Officer should indicate in the report in what way the offence can be classed as a “minor“ offence. The court may consider that imprisonment of less than 2 years would be appropriate for

an offence in which the maximum penalty exceeds 2 years. The recommendation to the magistrate for consideration of community service as an alternative to imprisonment should indicate—

- (a) the appropriate timetable that can be arranged.
- (b) whether the offender pleads guilty or not;
- (c) the attitude the community or the witnesses and the victim have adopted towards community service order for the offender;
- (d) whether it was possible for the witness and the victim to attend court proceedings.

4. Probation officers are required to produce good pre- sentence reports which together with those of the police will determine whether an offender will qualify for community service.

5. The Probation Officer has a big role as mediator between the community and the offender and has to make sure that the offender is rehabilitated and reintegrated back into society.

6. General outline of events leading to the Community Service Order.

- (a) Probation officer to be contacted by the police;
- (b) Initial inquiries into the situation, respecting every one's rights;
- (c) Decision to recommend the order upon conviction by the magistrate;
- (d) Contact the prosecutor with the recommendation for community service order;
- (e) If the police attitude is amenable to the community service then it should produce its report in addition to that of the probation officer or as a substitute in situations where the probation officer cannot handle the case.
- (f) magistrates should call for a list of placement institutions. In the meantime the Probation Officer or the police may wish to recommend that a certain institution is preferable to another institution;
- (g) on the commencement of a community service order, the Probation Officer, who is the primary overseer of the case may be called in by the court when the community service order is not being followed properly in order to find out what has gone wrong;
- (h) where there has been a breach of peace or other instances, the Probation Officer should advise the court on the following matters—
 - (i) whether the court should amend the order to change the program of work or place of work.
 - (ii) whether the court should send the offender to another court.
 - (iii) whether the court should order re- arrest of the suspect and cancel the order.
 - (iv) how to take up and operationalise a community service order transferred from another court.

7. A suspect who commits a minor offence, preferably a first offender, or a youthful offender, or one who has a disability, prima facie qualifies for community service. If the offender has already

committed one previous offence, an order for community service is not barred for the second offence if the first offence was trivial.

- (a) Prior to sentencing, the Probation Officer should ascertain from the police and other parties the following facts in regard to the offender—
 - (i) where the offender lives, works, age, whether convicted before or not;
 - (ii) the health status, if suffering from any disability;
 - (iii) whether the offender has any skills useful to the community;
 - (iv) whether there was any damage or harm caused to either side;
 - (v) whether the offender has a fixed place of abode;
 - (vi) the domestic situation and whether the offender has sole responsibility for dependants.
- (b) The Probation Officer should assess the safety of the victim and the community when considering whether the offender can be reintegrated in the community by finding out the following—
 - (i) what attitude the victim takes where the suspect is admitting to the offence.
 - (ii) what attitude the victim takes to an offer of compensation or restitution in order to make amends.
 - (iii) whether there is a relationship between the parties to encourage reconciliation in the family.
 - (iv) whether there is any previous incident between the parties and whether the offence is not prevalent in the area.
- (c) The Probation Officer should ensure that all factors have been ascertained in order to assess the risks to the community if a particular offender is awarded community service.
- (d) The Probation Officer should assess the risk to law and order if a particular offender is awarded community service may include revenge to the person, family or property of an offender, or mob justice or harassment.

PART C

GUIDELINES FOR SUPERVISING OFFICERS

1. General Directions

- (a) These guidelines only cover the most likely situations. In cases not covered, the Supervisor should use common sense and natural justice.

- (b) The supervising officer should, at the outset, find out from the district committee or the clerk of court who the coordinator for his area is and should feel free to consult and involve that person in addressing problems or difficulties that may occur.
- (c) The supervising officer is expected to guide and instruct the offender as a reasonable employer would with regard to his/her own employees on how to perform the work assigned. Proper control should be exercised.
- (d) All supervising officers of community service orders will be under the district community service coordinator.

Duties of Supervising Officers

- (a) To ensure that the offender understands the sentence;
- (b) To initiate supervision within the given time limit;
- (c) To comply with the requirements given;
- (d) To react in case of breach of the community service order;
- (e) To make a statement about the offender when required.

2. If the offender fails to attend:

1. If the offender fails to show up on the first day

- (a) the supervising officer should try to contact the offender;
- (b) on failing to contact the offender, the supervising officer should notify the clerk of court in writing. If there is a probation or Community Development Assistant in the area, that person should also be notified.

2. If the offender, having started his/her community service, stops showing up:

- (a) The supervising officer should inform the Probation Officer and wait for two days. The supervising officer should also notify the court that sent the offender to a placement institution.
- (b) If the offender then turns up on the third day, the officer should ask the offender if there was any excuse and if the supervising officer considers it reasonable or that the offender should be given another chance, the supervising officer should warn the offender not to let it happen again and make the offender make up for the time lost.
- (c) If the supervising officer considers the excuse unreasonable, he/she should inform the Clerk of Court in writing on Form 1:15 and the Community Development Officer/ Assistant in the area.
- (d) If the offender has not turned up by the third day, the supervising officer should inform the Clerk of Court and the Community Development Officer in the area in writing.

3. (i) Offender shows up late for work

The supervising officer should warn the offender and should not allow the habit to persist for long. If there is a Probation Officer or a Community Development Assistant in the area, the supervisor should

seek help on how to deal with the matter. If the offender still attends late after the final warning, the supervisor should inform the Clerk of Court in writing.

4. (i) If the offender reports to work but states that he/she is sick

The supervising officer should use his discretion to ascertain whether the offender is really sick. An offender, who seeks and is granted off work, must be informed of the fact that the time lost shall have to be made up. If the offender wishes to be away for three days then medical document supporting grant of off work on medical grounds have to be produced.

(ii) Where the offender fails to attend but sends a message that he/she is sick

If the supervisor is in contact with the offender, then proceed as in 4 (i) above.

Where the offender has sent a message through somebody else, then the supervisor should advise the probation officer/ community development assistant in the area and when the offender returns to work, days lost must be made up.

5. Where the offender reports to work but is in an unsuitable condition e.g. under the influence of alcohol or drugs, the supervisor should use his/her discretion to deal with the situation. If the condition is so bad that the offender cannot work, the offender should be sent home. When the offender next reports to work, the time lost has to be made up and the offender should also be warned to desist from the unsuitable condition that the matter, if it happens again, will be referred to court. The supervisor should also notify the district coordinator and if despite the warnings the offender continues to report to work drunk, the supervisor should inform the Clerk of Court on Form 1:15

6. (i) Where the offender asks for time off—

The supervisor should use his/her discretion granting time off for a few days if necessary. Genuine reasons only (e.g. to attend a funeral, to attend a medical examination or a job application). However, time lost has to be made up since the total amount of community service hours must always be completed within the period stipulated by the court.

7. (a) Offender requests a permanent change in his/her conditions of community service.

Where the offender requests a change in hours or days or the placement institution would like a change to be made because those fixed in court order are inconvenient for some reason, then the supervisor should notify the Clerk of Court in writing. Where the supervisor turns down the request to approach the court for a variation, then the offender should be advised to make an application to the court.

8. (i) If the offender's work is unsatisfactory or he/she is quarrelsome or uncooperative.

Where the offenders' work is unsatisfactory or the offender is quarrelsome or uncooperative, the supervising officer should inform the offender that such negative attitude or poor work cannot be tolerated and should warn the offender that failure to improve may lead to referral of the matter to court. The supervising officer should also call in the Coordinator to speak to the offender. If the default continues, the supervisor should report the matter back to court in writing.

(ii) if the work provided by the institution is unsuitable or inappropriate for the offender

Where the institution is found to be unsuitable, for example, it has manual labor and the offender is not physically strong, or where there is clerical work and the standard of education of the offender is not sufficient then the supervising officer may apply for a variation of conditions and the court may then assign the offender another suitable institution.

9. Where theft occurs, the supervising officer should report the matter to the police. In the case of damage to property, if it is deliberate, then it should also be reported to the police. If it is accidental or as a result of carelessness, then the supervising officer should warn the offender to be careful.

10. Where the police want the offender arrested for a crime committed at the placement institution or arrested elsewhere, the supervising officer should notify the clerk of court in writing of the fact if he/she gets to know it.

11. Where the offender is injured at work, the supervising officer should render initial assistance. If the offender needs to be admitted to a clinic or hospital, the officer should assist him/her to enter such a place and report the matter to the clerk of court. The supervising officer should advise the offender that if he/she wishes to make any claim for compensation in respect of injuries, he/she should consult the community service committee/ coordinator in the area.

12. The placement institution is under no legal obligation to supply either food or transport to the offender. However, voluntary assistance is at the discretion of the placement institution. Where an institution is unable to assist, then it should be stated clearly to the offender and the institution should also discuss the matter with the community service committee in the area or the coordinator.

13. It is the responsibility of the placement institution to provide the offender, free of charge with suitable clothing and tools to carry out the work assigned to him/her. In addition if the work requires rough manual labor, then it may also be appropriate to supply overalls or other protective clothing. These matters should be discussed with the district coordinator.

14. The work assigned to the offender should be within the offender's capabilities. For example the offender should not be given work for which he/she does not have proper skills. The offender's skills must be matched with the jobs. There should be no negligence on the part of the supervisor and proper guidance, instruction and supervision is expected and should be given.

15. The offender must not be humiliated by segregating from other workers so as to isolate him/her. The same clothing as other workers and entitlement to use the same facilities should be granted. The offender's consent must be had if media is seeking to interview the offender. The supervising officer should remember that the offender is being rehabilitated and not humiliated or abused.

16. Where the offender requires counseling and the facility exists, it should be provided. It is not required of an institution to provide counseling. However, where the offender asks for advice and guidance (or it is suggested to him/her and he/she agrees) and the appropriate somebody staff is available, then suitable and appropriate counseling may be given.

If none is available then the supervising officer should use his/her discretion to arrange counseling for the offender from an outside source. Where counseling is provided, it should be given outside the community service hours and should not be deducted for the hours the offender is required to serve.

17. The offender must not be allowed to take it for granted that he/she will be offered free accommodation in the community service. Free accommodation if provided, could abuse the scheme. Offenders should not as a rule be provided with free accommodation. Offenders are normally sent to work at a particular institute by the court having regard to the distance from their usual place of residence to the institution concerned. Where the real hardship would otherwise result, the district coordinator should be consulted on what action to take.

18. An offender who has a young baby, which she brings to the institution, should be given reasonable facilities and time to feed the baby. The institution should try and encourage the offender to

feed the baby during tea and lunch breaks. If however that is impossible, the offender should be allowed to nominate a period during working hours she would like to feed the baby. This period is not to be compensated.

19. The time spent by an offender in hospital or on sick leave should not be compensated. If the offender has a genuine minor illness (headache, sore throat or cold), fairness and discretion could be used in allowing him/her some time off. However, in case of a prolonged period of illness whether at home or in hospital, the court must be informed and a decision on community service should be made. This time must not be compensated from the total number of hours required to be served. The district coordinator should be consulted in difficult cases.

20. Community service should not generally be worked on a Saturday, Sunday or public holiday. The courts should normally not direct that community service be performed on a Saturday or Sunday. There might however be special cases where the court may direct that work be done on Sundays. If this is objectionable or poses any difficulties to the institution concerned, the matter should be reported to the district coordinator. However, if the weekend is accepted, then two working days must be allowed free to compensate.

21. A supervisor should speak to the press only with the consent of the offender. By voluntarily accepting an offender at the institution, the institution has indicated its support and commitment to the community service scheme. So when consent is got the supervisors should avoid criticism and disparaging publicly community workers. If there are any criticisms or suggestions, the latter should be brought to the attention of the district coordinator or the district committee.

22. Where the institution is late in assigning work to an offender, the offender is still entitled to be credited with the time wasted i.e. the period that has elapsed between the time he/she reported for the work and the time he/she actually started the work. The institution should therefore exercise every effort to start the offender working at the official time. If there is an unavoidable stoppage, such as a rainstorm or a break in the machinery, this can also be deducted from the offenders' hours spent at the institution. As long as he/she was present and available for work, he/she must be credited with the hours concerned.

23. The institution should check the identity card of the offender at the beginning of the community service as the offender may try to avoid his/her responsibility by sending someone else to do his/her work. If the offender has no identity card, some other form of identification could be asked for. In cases where there is suspicion or the offender is unable to supply any form of identification, the matter should be raised with the district coordinator.

PART D GUIDELINES FOR THE

POLICE

1. The police procedures of listening to both sides and arranging reconciliation, if possible, should be the first step to be taken if it is minor offence. A police bond may be issued to allow time for reconciliation and investigation. Arrest and detention of the culprit should be the last resort.

2. At the arrest stage, the police can probably gauge whether the offender is likely to be suitable for community service. This can be seen from the attitude of the offender and the victim. The normal findings of a police officer are—

- (i) where the offender lives with or without family, place of work, age and whether a first offender and any previous crime record;
- (ii) disability;

- (iii) whether there was as much wrong on the side of the victim as on the offender's side;
- (iv) whether the offender is a woman, married or not or has the sole responsibility for any children.

3. The police should find out as early as possible the following—

- (a) the attitude taken by the victim where the offender admits the offence;
- (b) the attitude taken by the victim to an offer of compensation, reconciliation; restitution or making amends by the offender;
- (c) whether there is a relationship between the parties which can be settled in the family;
- (d) whether there are any previous incidents between the parties;
- (e) whether the offence committed is prevalent in the area.

4. The police may arrest the offender after receiving information, or if present when the offence is committed. The police officer will also determine whether the circumstances of the offence and those of the offender and the victim, are suitable for community service and make a recommendation thereto.

5. An offender who commits a minor offence and who is probably a first offender or a youthful offender or one who has a disability or is probably suitable for community service. A second offender is not barred to undergo community service as long as the first offence was trivial in nature. Those under a disability may include women with children, or persons deformed, such as polio victims and the blind or dumb.

6. Police officers making a follow up should be very careful and understanding and ready to listen to all sides. They must use their discretion and common sense to assess the suitability of the case in regard to community service.

7. All circumstances of the offender should be outlined clearly and the police officer should make further inquiries in the following matters—

- (a) whether the offender has a fixed place of abode- whether personal, renting or a rural home;
- (b) whether the offender has a family with children who need his/her care;
- (c) whether the offender is employed and whether his/her employment can continue;
- (d) whether the character of the offender is conducive to community service.

8. The police should record the offender's statement and those of all the witnesses and his/her own observation and make recommendations in accordance with the police regulations.

9. The police are required to make sure that a record of the following are taken down and preserved—

- (a) the police station where the crime is reported;
- (b) the date and time of the occurrence;
- (c) the date and time reported to the police;
- (d) the name and address of the informer;

- (e) the nature- brief particulars of the offence, persons affected and property involved;
- (f) the initial classification of the crime;
- (g) action taken.

10. Where an offender has been arrested and taken to a police station or post and there is consideration that the offender could possibly benefit from community service—

- (a) the offender should be given police bond with or without sureties;
- (b) if possible, consultations should be made to develop consent and support from the local community;
- (c) the police officer should try to explain to the offender why the community service order is a better alternative, in order that the offender can judge whether to accept community service or not.

11. The police should consider the following carefully before recommending community service or not—

- (a) whether the case is minor offence and whether all the circumstances point to the suitability of imposing community service order;
- (b) the time frame necessary to arrange community service,
- (c) if a plea of guilty is offered, consider taking the offender to court straight;
 - (i) if no plea of guilty is offered, consider giving a police bond or recommend court bail and also consider having a probation officer around;
 - (ii) at the hearing try to get the victim to agree to the likely order for community service;
 - (iii) the prosecution has to decide at this stage whether to recommend community service;
 - (iv) where there is a likelihood of the magistrate being amenable to community service, a police or alternatively probation report should be produced;
 - (v) when the magistrate calls for a list of placement institutions the police may wish to recommend that a certain institution is preferably to another institution and the conditions for the order should be suggested.

12. Procedures after the offender has started community service—

- (a) The police may be called in when the community service order is not being followed properly and to find out what went wrong at the institution or whether another offence has been committed or there has been a breach of the peace of other people;
- (b) The police may be called to assist the court in the following circumstances—
 - (i) where an order is to be varied, including an order to change the Programme of work or place of work;
 - (ii) where an offender is to be sent to another court;
 - (iii) to re- arrest the offender where the offender absconds and seeks to set aside the order;

(iv) to be prepared to implement a community service order transferred from another court.
PART E

GUIDELINES REGARDING OFFENCES SUITABLE
FOR COMMUNITY SERVICE

(a) PENAL CODE OFFENCES

1.	Affray	C/s 74	1 year	
2.	Elopement	C/s 121A	1 year	
3.	Adultery	C/s 150A	1 year	
4.	Desertion of Children	C/s 152	2years	
5.	Neglecting to provide	C/s 53	2years	
6.	Common Nuisance	C/s 18	2years	
7.	Idle & Disorderly	C/s 162 b, c, d	3months	
8.	Rogue and Vagabond	C/s 167	1year	
9.	Adulteration of food & drinks	C/s 167	1year	
10.	Fouling water	C/s 171	2years	
11.	Fouling Air	C/s 172	2years.	
12.	Offensive Trade	C/s 173	1year	
13.	Misdemeanor termed libel	C/s 174	2years	
14.	Attempted Suicide	C/s 203	2years	
15.	Concealing birth of a child	C/s 204	2years	
16.	Failing to supply necessities	C/s		
17.	Specific rash & negligent	C/.s 220	2years	
18.	Other negligent acts	C/s 221	2years	
19.	Poisonous substance	C/s 222	6months	
20.	Endangering travel	C/s 223	2years	
21.	Conveying water	C/s 225	2years	
22.	Obstruction of public way	C/s 226	Liable for a fine	
23.	Common assault	C/s 227	1year	
24.	Assault punishable as misdemeanor	C/s 230	2years	
25.	Wrongful confinement	C/s 24	2years	
26.	Unlawful compulsory Labour	C/s 221	2years	
27.	Theft	C/s 252	5years (but see s37 of	Interpretation Decree,
1976			(Decree No 18 of 1976)	
28.	Fraudulent Disposition of Mortgaged goods	C/s 268	2years	
29.	Unlawful use of vehicle	C/s 271	2years	
30.	Criminal Trespass	C/s 286	2years	
31.	Obtaining credit by false pretence	C/s 292	2years	
32.	Fraudulent market price	C/s 293	2years	
33.	Frauds on sale	C/s 294	2years	
34.	Pretending to tell fortunes	C/s 295	2years	
35.	Obtaining registration falsely	C/s 296	1year	
36.	Concerning stolen property	C/s 299	2years	
37.	Prevention of control gun	C/s 311	2years	
38.	Injuring animals	C/s 314	2years	
39.	Attempts to commit any of the			

above crimes

C/s 370

Misdemeanor

(b) OFFENCES UNDER OTHER ENACTMENTS

39. Forests Act	Cap 246 S. 21	6months or fine
40. The Jaggery	Act 21/1966	
41. Tobacco	Act 5/1966	
42. Fish & Crocodiles	Cap 228	
43. Engineer's	Act 39/1969	
44. Surveyors Registration	Decree9/1973	
45. Uganda National Bureau of Standards Act 3/1968		
46. National Lotteries	Act 3/1968	
47. Trade Disputes (Arbitration & Settlement)	Cap 200	
48. Veterinary Surgeons	Act Cap 268	
49. UPT&C Decree	15/1972	
50. Traffic & Road Safety	Act 38/1970(Traffic and Road Safety	Act, 1998(Act No15/98)

NB. There are other misdemeanors offences, which have been omitted as unsuitable e.g. Those against the state and those showing great unreliability which would put too much burden on the supervising officers.

Minister of Internal Affairs

SARAH KIYINGI NAMUSOKE,