



BELIZE

**PENAL SYSTEM REFORM (ALTERNATIVE SENTENCES)
ACT
CHAPTER 102:01**

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CHAPTER 102:01

PENAL SYSTEM REFORM (ALTERNATIVE SENTENCES)

ARRANGEMENT OF SECTIONS

PART I

Preliminary

1. Short title.
2. Interpretation.

PART II

*Establishment and Functions of the Community
Rehabilitation Department*

3. Establishment of Department.
4. Functions of the Department.

PART III

*Powers of Criminal Courts
Discharge and Binding Over*

5. Meaning of “court” in this Part.
6. Discharging and binding over.
7. Commission of further offence by person conditionally discharged.

Suspension of Custodial Sentences

8. Suspended sentences.
9. Subsequent offence during operational period.
10. Discovery of further offence.
11. Saving of existing powers.

Community Service Orders

12. Community Service Orders.
13. Court to explain meaning of Order.
14. Duration and requirements of Community Service Order.
15. Notice of Order and supervision of offender.
16. Obligations of offenders under Community Service Orders.
17. Duration of Community Service Orders.
18. Breach of section 16.
19. Commission of further offences.
20. Variation and revocation of Community Service Orders.
21. Court to give notice of revocation or variation of Community Service Orders.
22. National Committee on community service.
23. Functions of the National Committee.
24. Regulations.

PART IV

*Principles of Judicial Sentencing
General*

25. General requirement.

Community Sentences

26. Restrictions on imposition of community sentences.

27. Procedural requirements for community sentences.

Custodial Sentences

28. Restrictions on the imposition of custodial sentences.

29. Length of custodial sentences.

30. Procedural requirements for custodial sentences.

Other Sentencing Guidelines

31. General guidelines.

PART V

Miscellaneous

32. Regulations.

33. Repeals.

Schedules:-

First Schedule — List of Offences.

Second Schedule — Type of Work

CHAPTER 102:01**PENAL SYSTEM REFORM (ALTERNATIVE SENTENCES)**

41 of 2001.
S.I. 122 of 2002.

[20th September, 2002.]

PART I*Preliminary*

Short title.

1. This Act may be cited as the Penal System Reform (Alternative Sentences) Act.

Interpretation.

2. In this Act, unless the context otherwise requires,

“combination order” means a combination of more than one community order or of one or more community orders and a fine or custodial sentence given by a court to an offender as part of a sentence;

“community order” includes,

- (a) a combination order;
- (b) a community service order;
- (c) a conditional discharge;
- (d) a probation order;
- (e) an order of a court directing a juvenile to be detained in a certified children’s institution;

“community sentence” has the meaning given to it in section 26(1) of this Act;

“community service order” has the meaning given to it in section 12 of this Act;

“Department” means the Department of Community Rehabilitation established under section 3(1) of this Act;

“Director” means the Director of Community Rehabilitation appointed under section 3(2) of this Act;

“juvenile” means a person under the age of eighteen years;

“Minister” means the Minister for the time being to whom the subject of Human Development is assigned by the Governor-General in accordance with section 41 of the Belize Constitution, Cap. 4.

PART II

Establishment and Functions of the Community Rehabilitation Department

3.—(1) There shall be and is hereby established, under the Ministry for the time being responsible for Human Development, a Department to be known as the “Community Rehabilitation Department”.

Establishment of
Department.

(2) The Department shall be headed by a public officer to be known as the Director of Community Rehabilitation, who shall be appointed by the Public Services Commission in accordance with section 106 of the Belize Constitution, Cap. 4,

Provided that the public officer who is the Director immediately before the commencement of this Act shall,

- (a) continue to act as Director after the commencement of this Act; and
- (b) be deemed to have been appointed under section (1) of this section.

(3) The Department shall perform such functions, and discharge such duties, as are specified by or under this Act or any other law.

(4) There shall be appointed by the Public Services Commission in accordance with section 106 of the Belize Constitution, Cap. 4, such other Community Rehabilitation Officers as may be necessary for carrying out the provisions of this Act or any other law.

Functions of the Department.

4. The functions of the Department include,

- (a) in respect of community orders, compiling reports for the consideration of the courts at the pre-sentencing or post-sentencing stage showing,
 - (i) the results of an interview with the offender;
 - (ii) where the offender is a juvenile, the results of an interview with the parents of the juvenile, and, where appropriate and reasonable, the results of an interview with members of the juvenile's extended family;
 - (iii) the results of an interview with the victim of the criminal offence, where applicable and reasonable;
 - (iv) such information as is applicable to the case, including where applicable,
 - (aa) the age, maturity, character, behaviour and attitude of the offender and his willingness to make amends and serve a community sentence;
 - (bb) any plans or proposals put forward by the offender to change his conduct or to participate in activities or undertake measures to improve himself;
 - (cc) the history of previous findings of guilt under this Act or any other law, the

history of community or other sentences given to the offender in respect of those findings, and the response of the offender to such previous sentences and to any community sentences undergone by him;

(dd) the availability and appropriateness of community services and facilities and the willingness of the offender to avail himself of those services or facilities;

(ee) where the offender is a juvenile, the relationship between the juvenile and the juvenile's parents and the degree of control and influence of the parents over the juvenile, and where appropriate and reasonably possible, the relationship between the juvenile and the juvenile's extended family, school authorities, employer, church authorities and the local community;

(ff) where appropriate and applicable, the school attendance and performance record or the employment record, of the offender;

(gg) the earning capacity of the offender, where the offender is a father in default of maintenance payments to his child;

(hh) such other information as a court considers relevant to the case;

(b) offering counselling to offenders and, in respect of juvenile offenders, their parents, on such terms and conditions, and for such period, as may be directed by a court;

- (c) supervising offenders sentenced to do community service work, or who are under probation orders;
- (d) supervising offenders who are sentenced to combination orders;
- (e) compiling statistics and undertaking research generally on any area of the criminal justice system, or on penal reform;
- (f) at the request of a court, supervising offenders at the post-sentencing stage;
- (g) compiling manuals on the operations of community orders in practice;
- (h) identifying and screening hospitals, schools, town, village and city councils and other institutions to determine their interest, suitability and ability to provide placement to offenders sentenced to do community service;
- (i) monitoring the institutions referred to in paragraph (h) to ensure that there is adequate supervision of, and full compliance with, the terms and conditions of community service orders;
- (j) reporting to the original court, within seventy-two hours, breaches of the terms and conditions of community service orders by offenders;
- (k) determining, and facilitating the provision of transport, food and other factors necessary to enable offenders under community sentences to discharge their sentences;
- (l) informing offenders of community sentences, in ordinary language, reporting procedures, terms and

conditions of their sentences where conditions are imposed as part of the sentences;

- (m) liaising with the Commission and other bodies, governmental or otherwise, involved in the criminal justice system generally or in penal reform in particular;
- (n) managing certified children’s institutions established or operated by the Government.

PART III

*Powers of Criminal Courts
Discharge and Binding Over*

5. In this Part, “court” means,

Meaning of “court” in this Part.

- (a) a juvenile court;
- (b) a summary jurisdiction court;
- (c) the Criminal Division of the Supreme Court of Judicature;
- (d) the Court of Appeal exercising its appellate jurisdiction in criminal causes;
- (e) an appellate court of record which sits in its appellate jurisdiction to determine criminal appeals from the Court of Appeal.

6.—(1) Where a court by or before which a person is convicted of an offence, not being an offence for which a mandatory minimum sentence is fixed by law, is of the opinion that, having regard to the nature of the offence, the character of the offender, and other relevant circumstances, it is inexpedient to inflict a custodial sentence, the court may make an order discharging the offender.

Discharging and binding over.

(2) An order made under subsection (1) of this section may discharge the offender absolutely or, if the court thinks fit, may discharge the offender subject to the condition that the offender does not commit an offence during a period specified in the order, which shall not exceed three years from the date of the making of the order, and in this Act an order of the latter kind is called an “order for conditional discharge” and the period specified in an order for conditional discharge is called “the period of conditional discharge”.

(3) Before making an order for conditional discharge the court,

- (a) may request the Department to prepare a report referred to in section 4(a) of this Act in respect of the offender;
- (b) shall explain to the offender in ordinary language that, if the offender commits another offence during the period of conditional discharge, the offender will be liable to be sentenced for the original offence.

(4) Where, under the provisions of this section and section 7 of this Act, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, the order for conditional discharge shall, from the date of the passing of sentence, stand discharged and cease to have effect.

7.—(1) If it appears to a court that a person in whose case an order for conditional discharge has been made has been convicted in Belize, of an offence committed during the period of conditional discharge, the court may issue a summons on information, or a warrant on information in writing and on oath, requiring that person to appear at the time and place specified in the summons or the warrant for that person’s arrest.

(2) A summons or warrant issued under subsection (1) of this section, shall direct that the person to whom it relates appear or be brought before the court that made the order for conditional discharge.

(3) Where a person in whose case an order for conditional discharge has been made by the Criminal Division of the Supreme Court is convicted by a court referred to in section 5(a) or (b) of this Act of an

Commission of further offence by person conditionally discharged.

offence committed during the period of conditional discharge, that court may either commit the offender to custody, or release the offender on bail, until the offender may be brought before the Criminal Division of the Supreme Court, and that court shall forthwith send to the Registrar of the Supreme Court a copy of the record of the conviction entered by that court, signed by the clerk of that court.

(4) Where it is proved to the satisfaction of the court that made an order for conditional discharge that the offender in whose case the order was made has been convicted of an offence committed during the period of conditional discharge, the court may deal with the offender, for the offence for which the order was made, in any manner in which it could deal with the offender if the offender had just been convicted by or before that court of that offence.

(5) If a person in whose case an order for conditional discharge has been made by a court referred to in section 5(a) or (b) of this Act (hereinafter called the “first court”) is convicted before a court referred to in section 5(c), (d) or (e) of the Act (hereinafter called the “latter court”) of an offence committed during the period of conditional discharge, the latter court may deal with the offender, for the offence for which the order was made, in any manner in which the first court could deal with the offender if it had just convicted the offender of that offence.

(6) For the purposes of section 6 and this section, where an order for conditional discharge has been made on appeal, the order shall be treated as having been made by the court from which the appeal was brought.

(7) Subject to subsection (8) of this section, the provisions of sections 5, 6 of this Act are without prejudice to any rule of law for the time being allowing any criminal court in Belize to discharge an offender.

Suspension of Custodial Sentences

(8) Notwithstanding any Act or law to the contrary, a criminal court shall only discharge offenders in respect of the offences specified in Schedule I hereto.

Schedule I.

(9) This section does not apply to offences specified in subsection (10) of this section.

(10) The offences referred to in subsection (9) of this section are attempted murder, manslaughter, maim, dangerous or grievous harm, robbery, attempted robbery, assault with intent to rob, burglary or aggravated burglary, or an offence under,

(a) the Firearms Act, Cap. 143;

36 of 1999.

(b) a sexual offence as defined in section 65 of the Criminal Code, Cap.101.

Suspended sentences.

8.—(1) A court which passes a sentence of imprisonment on an offender for a term of not more than three years (not being an offence for which a mandatory minimum sentence is imposed by law) for an offence may suspend the sentence by ordering that the sentence shall not take effect unless,

(a) during a period specified in the order, being not less than twelve months nor more than three years from the date of the order, (in this Act referred to as “the operational period”) the offender commits in Belize another offence punishable with imprisonment for a period exceeding six months (hereafter in this section and sections 9 and 10 of this Act, referred to as a “subsequent offence”); and

(b) thereafter a court having power to do so orders under section 9 that the original sentence shall take effect.

(2) A sentence for an offence specified in section 7(10) of this Act, shall not be suspended and notwithstanding any Act or law to the contrary, a criminal court shall only suspend the sentences of offenders who have committed the offences specified in First Schedule hereto.

(3) A court shall not deal with an offender by means of a suspended sentence unless the case appears to the court to be one in respect of which

a sentence of imprisonment would have been appropriate in the absence of power to suspend such a sentence by an order under subsection (1) of this section.

(4) Where a court passes a suspended sentence on an offender in respect of an offence and also a term of imprisonment in respect of another offence, the court shall direct that the suspended sentence be concurrent with the term of imprisonment.

(5) On passing a suspended sentence, the court shall explain to the offender in ordinary language, the offender's liability under section 9, if the offender commits a subsequent offence during the operational period.

9.—(1) Subject to subsection (3) of this section, where an offender is convicted of a subsequent offence committed during the operational period of a suspended sentence, the court by or before which the offender is convicted of the subsequent offence may order that the suspended sentence shall take effect with the original term unaltered; or the court may substitute a lesser term of imprisonment for the original term.

Subsequent offence during operational period.

(2) Where a court deals with an offender in respect of a suspended sentence passed by another court, the first court shall notify the latter court of the manner in which the offender was dealt with.

(3) Where a court referred to in paragraph (a) or (b) of section 5 convicts an offender of an offence in respect of which a suspended sentence passed by a court referred to in paragraph (c), (d) or (e) of section 5 of this Act is in operation, the first court shall forward to the Registrar of the latter court a certificate signed by the clerk of the first court and under the seal of that court certifying that the offender has been convicted of a subsequent offence, together with such other particulars of the case as the first court may consider necessary; whereupon a Judge of the latter court before whom the offender is brought may, without prejudice to the order of the first court with respect to the subsequent offence, order that the suspended sentence shall take effect either with the original term unaltered or with the substitution of a lesser term for the original term.

Discovery of further offence.

10.—(1) Where a person has been convicted by or before a court of a subsequent offence committed during the operational period of a suspended sentence but that court was not at the time aware of the suspended sentence or of some feature affecting the operation of that sentence, any court may, on receipt of information relating to that suspended sentence or that feature and the conviction of the offender for the subsequent offence, issue a summons requiring that person to appear at the place and time specified in the summons, or may issue a warrant for that person's arrest.

(2) A summons or warrant issued under subsection (1) of this section, shall direct that the person appear or be brought before the court by or before which the person was convicted in respect of the subsequent offence and, upon that person so appearing or being so brought, the court shall proceed to exercise its powers under section 9 of this Act in respect of the suspended sentence.

Saving of existing powers.

11. Subject to section 8(2) of this Act, the provisions of sections 8 to 10 of the Act are without prejudice to any rule of law for the time being allowing a criminal court to suspend a sentence.

Community Service Orders

Community Service Orders.

12.—(1) Subject to this section and to regulations made under section 24(1) of this Act, a court which convicts any person of an offence may make in respect of him a community service order requiring him, during the life of the order, to render service for the benefit of the community or any section of the community for such number of hours as shall be specified in the order.

- (2) A community service order may be made against an offender,
- (a) in addition to any other sentence that the court imposes;
 - (b) instead of any other sentence that the court may impose, unless such other sentence is mandatory; or

- (c) *in lieu* of imprisonment for a default in the payment of maintenance money to a spouse or child pursuant to the Families and Children’s Act, Cap. 173.

(3) A court shall not make a community service order against an offender,

- (a) unless the offender consents to the making of such an order;

- (b) unless the court is satisfied,

- (i) after considering a report made by the Department under section 4(a) of this Act on the request of the court, and if the court thinks it necessary and desirable, after hearing the Community Rehabilitation Officer who prepared the report, that the offender is a suitable person to perform work under such an order;

- (ii) that provision can adequately be made for the offender to perform work under the order and to be supervised;

- (c) in respect of an offence specified in section 7(10) of this Act;

- (d) unless the offence falls in the categories of offences specified in Schedule I hereto.

Schedule I.

13. Before making a community service Order, the court shall explain to the offender, in ordinary language,

Court to explain meaning of order.

- (a) the purpose and effect of the order, and in particular the conditions and requirements that may be specified in it under section 14 and the requirements of section 15(1)(b) of this Act;

- (b) the consequences which may follow under section 18 of this Act if the offender fails to comply with any of those conditions and requirements or under section 19 of the Act if he commits an offence during the life of the community service order; and
- (c) that the court has under section 20 of this Act the power to review the order on application either of the offender or of the Director.

Duration and requirements of Community Service Order.

14.—(1) The community service order shall be performed for a period not exceeding one year (twelve calendar months), and in any one week during the life of the order, the offender shall not,

- (a) work for more than eight hours a day; or
- (b) work on a Saturday, a Sunday, or a public or bank holiday.

(2) The community service order shall contain such requirements and conditions to be complied with by the offender during the life of the order as the court may consider necessary for the supervision of the offender.

Notice of Order and supervision of offender.

15.—(1) A court which makes a community service order,

- (a) shall forthwith give a copy of the order to the offender and send a copy to the Director;
- (b) shall specify in the order a place at which, and a time when and within which, the offender shall present himself for the purpose of enabling the administration of the order to commence.

(2) The Director shall ensure that a copy of the order sent to him under subsection (1)(a) of this section is supplied to the offender's supervising Community Rehabilitation Officer.

16.—(1) Where a community service order is in force against an offender, the offender shall,

Obligations of offenders under Community Service Orders.

- (a) perform, for the number of hours specified in the order, such work and at such times as may be directed by his supervising Community Rehabilitation Officer;
- (b) perform the work referred to in paragraph (a) of this subsection in a satisfactory manner;
- (c) comply with any conditions and requirements specified in section 14 of this Act;
- (d) comply with any reasonable direction of his supervising Community Rehabilitation Officer, including any direction designed to enable that officer to provide rehabilitative counselling and guidance; and
- (e) immediately notify his supervising Community Rehabilitation Officer of any change of his address.

(2) In making a Community Service Order, a court shall ensure that the offender is required to work within his judicial district, preferably within his community.

(3) The directions given by a supervising Community Rehabilitation Officer under subsection (1) of this section shall, so far as practicable, take account of the offender’s religious beliefs and the times, if any, when he normally engages in gainful employment or attends school or other educational instruction.

(4) The type of work that an offender may be required to perform under a community service order shall be that specified in Second Schedule hereto.

(5) The Minister may, by Order published in the *Gazette*, amend the type of work specified in Second Schedule hereto.

Duration of community service orders.

17. A community service order shall remain in force against an offender until,

- (a) the offender has performed the work required under it for the number of hours specified in it; or
- (b) the expiration of twelve months commencing from the date of the making of the order; or
- (c) where the order is extended under section 20(1) (a)(i) of this Act, the expiration of the order as so extended; or
- (d) the Order is revoked under section 18, 19 or 20 of this Act,

whichever occurs first.

Breach of section 16.

18.—(1) An offender who fails to comply with section 16(1) of this Act, whether by reason of a failure satisfactorily to comply with the conditions or requirements of his community service order or otherwise, may be dealt with in accordance with this section.

(2) If at any time while a community service order is in force in respect of an offender it appears on information to a court specified in section 5(a) or (b) of this Act that the offender has failed to comply with section 16(1) of this Act, that court may issue a summons requiring the offender to appear before a summary jurisdiction court at the time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.

(3) If it is proved to the satisfaction of a court specified in section 5(a) or (b) of this Act before whom an offender appears or is brought under this section that he has failed without reasonable excuse to comply with section 16(1) of this Act that court may, without prejudice to the continuance of the order, impose on him a fine not exceeding two thousand dollars, or may,

- (a) if the community service order was made by a court specified in section 5(a) or (b) of this Act, revoke the order and deal with the offender for the offence in respect of which the order was made, in any manner in which the offender could have been dealt with for that offence by the court which made the order if the order had not been made;
 - (b) if the order was made by a court specified in section 5(c), (d) or (e) of this Act, commit the offender to custody or release him on bail (with or without sureties) until such time as he can be brought or made to appear before such court.
- (4) Where (a court specified in section 5(a) or (b) of this Act deals with an offender's case under subsection (3)(b) of this Act,
- (a) that court shall send to the court referred to in section 5(c), (d) or (e) of this Act a certificate signed by the magistrate certifying that the offender has failed to comply with section 16 (1) of this Act in the manner specified in the certificate, together with such other particulars of the case as are in the opinion of the magistrate necessary, and a certificate purporting to be so signed shall upon its production be admissible before a court referred to in section 5(c), (d) or (e) of the Act as evidence of the failure to comply without further proof;
 - (b) where the offender is brought or appears before the court referred to in section 5(c), (d) or (e) and that court is satisfied that he has failed to comply with section 16(1) of this Act that court may either,
 - (i) without prejudice to the continuance of the order, impose on the offender a fine not exceeding two thousand dollars; or

- (ii) revoke the order and deal with the offender for the offence in respect of which the order was made, in any manner in which the offender could have been dealt with for that offence by the court which made the order if the order had not been made.

(5) A fine imposed under this section in respect of a failure to comply with section 16 (1) of this Act, shall be deemed for the purposes of any law to be a sum adjudged to be paid by a conviction.

Commission of
further offences.

19.—(1) An offender who commits an offence whilst a community service order is in force in respect of him (in this section referred to as “a subsequent offence”) may be dealt with in respect of the subsequent offence and of any offence for which the community service order was made (in this section referred to as “all original offence”) in accordance with this section.

(2) An offender who is convicted and sentenced by a court in respect of a subsequent offence may in addition be sentenced by that court, if it considers it expedient to do so, for an original offence in any manner in which the court that made the community service order could have sentenced the offender if it had just convicted him of the original offence,

Provided that,

- (a) a court specified in section 5(a) or (b) of this Act shall not by virtue of this subsection sentence an offender for the original offence if the community service order was made by a court specified in section 5(c), (d) or (e) of this Act;
- (b) the Criminal Division of the Supreme Court of Judicature shall not sentence an offender for the original offence by virtue of this subsection if the community service order was made by a court referred to in section 5(d) or (e) of this Act.

(3) Where a court sentences an offender under subsection (2) of this section it may revoke, or vary the terms of, any community service order which is in force in respect of the offender, or make no order in respect of it.

(4) Where,

- (a) a court specified in section 5(a) or (b) of this Act convicts an offender of a subsequent offence that was committed whilst a community service order made by a court referred to in section 5(c), (d) or (e) of this Act was in force in respect of him; or
- (b) the Criminal Division of the Supreme Court convicts an offender of a subsequent offence that was committed whilst a community service order made by a court specified to in section 5(d) or (e) of this Act was in force in respect of him,

the court that convicts the offender may, if it thinks fit, without proceeding to sentence, order that the offender appear or be brought before the court by which the community service order was made to be dealt with under subsection (7) of this section, and for this purpose may commit him to custody or release him on bail (with or without sureties), and a court that so orders shall send to the court referred to in section 5(c), (d) or (e) of this Act dealing with the matter, as the case may be, a copy of the record of the conviction for the subsequent offence.

(5) If it appears,

- (a) to a Judge of a court referred to in section 5(c), (d) or (e) of this Act by which a community service order was made; or
- (b) a magistrate of a court referred to in section 5(a) or (b) of this Act by which a community service order was made,

that an offender has been convicted by any court of a subsequent offence, and has been dealt with for that offence but not sentenced under this section for an original offence, the Judge or magistrate, as the case may be, may issue a summons requiring the offender to appear before the court that made the community service order, at the time specified in the summons, or may issue a warrant for his arrest requiring him to be brought before that court and dealt with under subsection (7) of this section,

Provided that a court referred to in section 5(a) or (b) of this Act, shall not issue a warrant under this subsection except on information in writing and on oath.

(6) If a warrant issued under this section directs an offender to be brought before a court referred to in section 5(c), (d) or (e) of this Act, and the offender cannot forthwith be brought before that court, the warrant shall have effect as if it directed him to be brought before a court referred to in section 5(a) or (b) of this Act, as the case may be, and such court shall commit him to custody or release him on bail (with or without sureties) until he can be brought before the court referred to in section 5(c), (d) or (e) of this Act dealing with his case.

(7) Where it is proved to the satisfaction of the court before which an offender appears or is brought under subsection (4), (5) or (6) of this section, that the offender has been convicted of a subsequent offence, the court,

- (a) may sentence him for the original offence in any manner in which the court that made the community service order could have sentenced him if it had just convicted him of the original offence, and may revoke, or vary the terms of, any community service order that is in force in respect of him, or may make no order in respect of it; and
- (b) where the offender appears or is brought before the court under subsection (4) of this section, may also sentence him for the subsequent offence in any

manner in which the court that convicted him of the subsequent offence could have sentenced him.

20.—(1) Where a community service order is in force in respect of an offender, a court specified in section 5(a) or (b) of this Act, on application by the offender or by the Director,

Variation and re-
vocation of Com-
munity Service
Orders.

- (a) may, upon any of the grounds specified in subsection (2) of this section, if the community service order was made by a court specified in section 5(a) or (b) of this Act,
 - (i) extend in relation to the order the period of twelve months specified in section 14(1) of this Act;
 - (ii) revoke the order and deal with the offender for the offence in respect of which the order was made in any manner in which he could have been dealt with for that offence by the court which made the order if the order had not been made;
- (b) may, if the order was made by a court specified to in section 5(c), (d) or (e) of this Act, commit the offender to custody or release him on bail (with or without sureties) until he can be brought or made to appear before the court which made the order, and if the court specified in section 5(a) or (b) of this Act does so, it shall send to that court such particulars of the case as in its opinion are necessary.

(2) The grounds upon which a court may vary or revoke a community service order under this section are,

- (a) that there has been a change of circumstances since the order was imposed that would justify the variation or revocation of the order;

- (b) that it is no longer necessary in the interest of the community or the offender that the order should continue;
- (c) that no, or no more suitable service is available to be performed by the offender for the purpose of the order;
- (d) that because of incapacity or for any other reason considered sufficient by the court, it will be impossible for the offender to perform the service before the order expires, or that it would be unreasonable to require him to do so.

(3) Where in pursuance of subsection (1)(b) of this section, the offender is brought or appears before a court referred to in section 5(c), (d) or (e) of this Act, that court may, upon the grounds specified in subsection (2), deal with the offender in any manner specified in subsection (1)(a) of this section.

(4) Where a court specified in section 5(a) or (b) of this Act proposes to exercise its powers otherwise than on the application of the offender, it shall summon him to appear before the court and, if he does not appear in answer to the summons, may issue a warrant for his arrest.

21. Where a court revokes, or extends, or otherwise varies, a community service order, it shall forthwith give to the offender, and send to the Director and the offender's supervising Community Rehabilitation Officer, a copy of its order revoking, extending or otherwise varying the community service order.

22.—(1) There shall be a committee to be known as the National Committee on Community Service (hereinafter called "the National Committee").

(2) The National Committee shall consist of,

- (a) a Judge or a former Judge of the Supreme Court of Judicature nominated by the Chief Justice;

Court to give notice of revocation or variation of Community Service Orders.

National Committee on Community Service.

- (b) the Director of the Family Court;
- (c) a Crown Counsel nominated by the Director of Public Prosecutions;
- (d) the Superintendent of Prisons or his representative;
- (e) the Commissioner of Police or his representative;
- (f) the Director;
- (g) a representative of the Ministry responsible for Local Government;
- (h) a representative of the Ministry responsible for Health;
- (i) a representative of the Ministry responsible for Education; and
- (j) a representative of the Ministry responsible for Youth;
- (k) one representative nominated by non-governmental organisations;
- (l) one representative nominated by the private sector;
- (m) a representative of the University of Belize; and
- (n) a magistrate nominated by the Chief Magistrate.

(3) The members of the National Committee shall elect one of their number to be Chairperson, and another of their number to be Deputy Chairperson.

(4) The Chairperson and Deputy Chairperson shall hold office for one year but shall be eligible for re-election.

(5) The Director shall be the Secretary of the Committee.

Functions of the
National Commit-
tee.

23.—(1) The functions of the National Committee are,

- (a) to monitor the operation of community service orders in all their aspects and to liaise and communicate with the Department on areas or issues requiring improvement;
- (b) to propose to the Department measures for the effective operation of community service orders;
- (c) to receive and consider extra-judicial complaints by offenders on the nature of community service work;
- (d) to undertake any other function that may be required of it by or under this Act or any other law.

(2) The National Committee shall have District Committees.

Regulations.

24.—(1) The Minister may make regulations prescribing,

- (a) the composition and functions of District Committees;
- (b) any forms necessary for the purposes of this Act;
- (c) any other matters necessary for the proper implementation of community service orders.

PART IV

Principles of Judicial Sentencing *General*

General require-
ment.

25. All courts shall observe the principles of judicial sentencing in this Part and give them effect.

Community Sentences

26.—(1) A court shall not pass on an offender a community sentence, that is to say, a sentence which consists of or includes one or more community orders, unless it is of the opinion that the offence is serious enough to warrant such a sentence.

Restrictions on imposition of community sentences.

(2) Where a court passes a community sentence,

- (a) the particular order or orders comprising or forming part of the sentence shall be such as in the opinion of the court is, or taken together are, the most suitable for the offender; and
- (b) the restrictions on liberty imposed shall be such as in the opinion of the court are commensurate with the seriousness of the offence.

27.—(1) In forming such an opinion as is mentioned in section 14 of the Certified Institutions (Children’s Reformation) Act, Cap.121, a court shall take into account all such information about the circumstances of the offence (including any aggravating or mitigating factors) as is available to the court.

Procedural requirements for community sentences.

(2) In forming such an opinion as is mentioned in subsection (2)(a) of section 26 of this Act, a court may take into account any information about the offender which is before the court.

(3) A court shall obtain from the Department and consider a presentence report before forming an opinion as to the suitability of the offender for a community service order or a combination order.

Custodial Sentences

28.—(1) This section applies where a person is convicted of an offence punishable with a custodial sentence other than one fixed by law.

Restrictions on the imposition of custodial sentences.

(2) Subject to subsection (3) of this section, the court shall not pass a custodial sentence on the offender unless it is of the opinion,

- (a) that the offence was so serious that only such a sentence can be justified for the offence; or
- (b) where the offence is a violent or sexual offence (as defined in section 7 of this Act), that only such a sentence would be adequate to protect the public from serious harm from the offender.

(3) Nothing in subsection (2) of this section prevents the court from passing a custodial sentence on an offender if the offender refuses to consent to a community sentence which is proposed by the court and requires that consent.

(4) Where a court passes a custodial sentence it is the court's duty,

- (a) in a case not falling within subsection (3) of this section, to state in open court that it is of the opinion that either or both of paragraphs (a) and/or (b) of subsection (2) of this section apply and why it is of that opinion; and
- (b) in any case, to explain to the offender in open court and in ordinary language why it is passing a custodial sentence on the offender.

A court shall cause the reasons stated by it under subsection (4) to be specified in the warrant of commitment and to be entered in the record of the court.

29.—(1) This section applies where a court passes a custodial sentence other than one fixed by law.

(2) The custodial sentence shall be,

- (a) for such term (not exceeding the permitted maximum) as in the opinion of the court is commensurate with the seriousness of the offence; or

Length of custo-
dial sentences.

(b) where the offence is a violent or sexual offence (as defined in section 7 of this Act), for such longer term (not exceeding that maximum) as in the opinion of the court is necessary to protect the public from serious harm from the offender.

(3) Where the court passes a custodial sentence for a term longer than is commensurate with the seriousness of the offence, the court shall,

(a) state in open court that it is of the opinion that subsection (2)(b) of this section applies and why it is of that opinion; and

(b) explain to the offender in open court and in ordinary language why the sentence is for such a term.

30.—(1) Subject to subsection (2) of this Act, a court shall obtain from the Department and consider a pre-sentence report before forming any such opinion as is mentioned in subsection (2) of section 28 or 29 of this Act.

Procedural requirements for custodial sentences.

(2) Where the offence is triable only on indictment, subsection (1) of this section does not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report.

(3) In forming any such opinion as is mentioned in subsection (2) of section 28 or 29 of this Act, a court,

(a) shall take into account all such information about the circumstances of the offence (including any aggravating or mitigating factors) as is available to the court; and

(b) in the case of any such opinion as is mentioned in paragraph (b), may take into account any information about the offender which is before the court.

(4) A custodial sentence which is passed in a case to which subsection (1) of this section applies is not invalidated by the failure of a court to comply with that subsection but any court on an appeal against such a sentence,

- (a) shall obtain a pre-sentence report if none was obtained by the court; and
- (b) shall consider any such report obtained by it or by that court.

Other Sentencing Guidelines

General guidelines.

31.—(1) Without prejudice to sections 25 to 30 of this Act, a court in sentencing an offender convicted by or before the court shall observe the general guidelines set forth in this section.

(2) The guidelines referred to in subsection (1) of this section are as follows,

1. The rehabilitation of the offender is one of the aims of sentencing, except where the penalty is death.
2. The gravity of a punishment must be commensurate with the gravity of the offence.
3. An offender must not be sentenced except for an offence of which the offender has been convicted or for another offence or other offences which the offender has asked the court to take into consideration in passing sentence.
4. Where a fine is imposed, the court in fixing the amount of the fine must take into account, among other relevant considerations, the means of the offender so far as these are known to the court, regardless whether this will increase or reduce the amount of the fine.

PART V

Miscellaneous

32. The Minister may make regulations generally to give effect to this Act, or any Part or section thereof, and such regulations shall be subject to negative resolution by both Houses of the National Assembly.

Regulations.

33.—(1) On the 5th day of January, 2002, the provisions of Part V of the Crime Control and Criminal Justice Act, Cap. 102 (making provision for Community Service Orders) are hereby repealed.

Repeals.

(2) Notwithstanding the repeal of Part V of the Act specified in subsection (1) of this section,

- (a) all Rules, Regulations and Orders made thereunder shall continue in force insofar as they are not inconsistent with the provisions of this Act and until repealed and replaced by Rules, Regulations and Orders made under this Act; and
- (b) every licence, order or other document issued or made under the said Part and so issued or made shall, insofar as it is not inconsistent with the provisions of this Act, continue to be effectual until its expiration and subject to such terms and conditions as may be stated therein.

FIRST SCHEDULE

PENAL SYSTEM REFORM (ALTERNATIVE SENTENCES) ACT

List of Offences

[Sections 7, 8 and 12]

1. Common assault by a first offender.
2. Theft by a first offender not exceeding five hundred dollars.
3. Failure to pay maintenance money pursuant to the Families and Children.
4. Provocation to fight.
5. Any offence committed by a first offender for which the maximum penalty as fixed by law is not more than one hundred dollars or six months imprisonment, or both.
6. Any petty misdemeanor or petty offence specified in Part II of the Summary Jurisdiction (Offences) Act, Cap. 98, committed by a first offender.
7. Any abetment of, or attempt to commit, the crimes listed in this Schedule.
8. A first offence for possession of cannabis or any other controlled drug of a quantity less than that specified under the Misuse of Drugs Act, Cap. 103, as the minimum quantity the possession of which is deemed to be possession for the purpose of supplying another person or for drug trafficking.
9. A first offence involving smoking or otherwise using prepared cocaine, or cannabis.

Act, Cap. 173.

SECOND SCHEDULE

PENAL SYSTEM REFORM (ALTERNATIVE SENTENCES) ACT

Type of Work

[Section 16(4) and (5)]

1. Work at or for any hospital, or at or for any charitable, educational, cultural, or recreational institution or organization.
2. Work at or for any other institution or organization for old, infirm or handicapped persons.
3. Work on any land that is leased, occupied, administered, maintained or kept clean by the Government or any public statutory body.