

S.I. 52 of 2015

PROBATION OF OFFENDERS ACT

(Cap 184)

Probation of Offenders (Amendment) Regulations, 2015

In exercise of the powers conferred by section 12 of the Probation of Offenders Act (*Cap 184*), the Minister of Social Affairs, Community Development and Sports hereby makes the following Regulations —

1. These Regulations may be cited as the Probation of Offenders (Amendment) Regulations, 2015.

Citation

2. The Probation of Offenders Regulations is hereby amended as follows —

Amendment of
S.I. 23 of 1966
as last
amended by
S.I. 12 of 1976

(a) by inserting in regulation 3, after subregulation (3), the following subregulation —

“(4) A member of a probation committee shall be paid an allowance as the Minister may from time to time determine.”;

(b) by repealing in regulation 4(1), the word “President” and substituting therefor the word “Minister”;

(c) by inserting after regulation 8, the following regulations —

Other
functions of
a probation
committee

“8A. The probation committee shall, in connection with probation —

(a) advise the Minister on matters of policy relating to probation;

- (b) recommend policies and procedures for the review and coordination of activities that relate to probation and community service; and
- (c) inquire any matter referred to it, including individual cases where special help is required, and report to the Minister.

Identification
of works for
community
service order

8B.(1) The officer responsible for community service shall—

- (a) in consultation with government departments and charitable organisations, identify the works within such department or organisation which in the opinion of the probation committee may be suitable for community service and recommend to the Minister for the purposes of section 5A(4) of the Act; and
- (b) review and update the list of works identified under paragraph (a) (herein referred to as “the list”).

(2) Notwithstanding subregulation (1)(a), where in a government department or a charitable organisation there exists any work which may suitably be performed by community service, the head of that department or charitable organisation may notify the probation committee, and the committee shall, if satisfied that the work

may suitably be performed by community service, include that work in the list.

(3) Where in relation to a work description entered on the list and the need for community service no longer exists, the relevant head of department or charitable organisation shall immediately notify the Head of the Probation Services.

(4) The Minister shall, on receipt of the recommendation, if any, under subregulation (1), in accordance with section 5A(4) of the Act designate such work to be performed as community service.

Duty of officer
responsible for
community
service

8C. The officer responsible for community service shall in consultation with the head of government department and the charitable organisation arrange and monitor the performance of community service in relation to work under such department or charitable organisation, as the case may be.

Offenders on
community
service order

8D.(1) A community service order under section 5A may be made by the court in Form E set out in the Schedule.

(2) Where a community service order is made by the court, the court shall direct the offender to report to the officer responsible for implementing the order.

Performance
of
community
service work

8E.(1) The officer assigned to the case shall arrange for the performance of community service in a manner which does not place undue hardship on the offender.

(2) Any difficulty experienced by an offender in the performance of community service may be reported to the officer assigned to the case and the officer in consultation with the probation committee shall take such steps as may be necessary to alleviate the difficulty.

(3) The number of hours of community service to be performed by an offender shall not exceed eight in any one day.

(4) In determining the number of hours of community service to be performed in a day and the time of day when such work is to be performed, regard shall be had to the age of the offender and to any disability or other circumstance which may render the offender unable to perform the work under community service throughout a full work day.

(5) Except with the consent of the offender, an offender shall not be required to perform community service on a public holiday.

(6) Where an offender consents to the performance of community service on a public holiday, each hour of such service shall be computed as two hours of service for the purpose of determining the total number of hours of work under community service performed.

Failure to comply with order

8F. Where an offender fails to comply with the requirements of a community service order, the officer assigned to the case may make a complaint to the Magistrate in Form F set out in the Schedule.

Application to vary order

8G. An application to vary a community service order may be made in Form G set out in the Schedule.

Notice to court and Registrar

8H. Where an offender has performed the number of hours of community service stipulated in a community service order, the officer assigned with the case shall notify to the Judge or the Magistrate and the Registrar in Form H set out in the Schedule.”;

(d) by adding in the Schedule, after “Form D” the following Forms —

**“FORM E
SEYCHELLES
IN THE SUPREME COURT/MAGISTRATE COURT
The Probation of Offenders Act
(Cap. 184)
Case No.....
COMMUNITY SERVICE ORDER**

To....., Probation Officer

WHEREAS this day/on the of 20....
before me
.....
is/was convicted of having on.....
committed the offence of.....
and the convicted person is/was sentenced to undergo.....
.....

AND WHEREAS after considering a report from/hearing
....., Probation Officer, I am satisfied
that the convicted person is a suitable person to be the subject
of a community service Order.

AND WHEREAS I have explained to the convicted person —

- (a) the purpose, effect and duration of the Order;
- (b) the hereunder mentioned conditions attached to the Order and the consequences of a breach of any condition;
- (c) that the Court may amend the Order upon application made by the convicted person or a Probation Officer;
- (d) that any breach of the Act or any condition of the Probation Officer renders him liable to —
 - (i) a fine not exceeding SCR.....; and
 - (ii) a revocation of the Order;

AND WHEREAS I have ascertained that —

- (a) the convicted person gives his consent to the making of the Order;
- (b) adequate arrangements have been made for the carrying into effect of the Order.

I, THEREFORE, make a community service Order requiring the convicted person to perform unpaid work for hours, subject to the following conditions —

- (a) work must be performed for hours on at (place) for (Government Department or any charitable organisation).
- (b) the convicted person must reside at.....;
- (c) the convicted person must be under the supervision of a Probation Officer;

- (d) the convicted person must be of good conduct, must not disturb the public peace and must avoid the victim of the offence with respect to which he is/was convicted, or with
- (e) the convicted person must be performed diligently and at reasonable speed;
- (f) the convicted person must make his own arrangements, financial or otherwise, to attend his site work.

Dated this day of 20.....

Judge/Magistrate

FORM F
SEYCHELLES

IN THE SUPREME COURT/MAGISTRATE COURT

The Probation of Offenders Act

(Cap. 184)

Case No.....

COMMUNITY SERVICE ORDER

REPORT OF BREACH OF COMMUNITY SERVICE ORDER

WHEREAS a Community Service Order was made by the Supreme/Magistrate Court at on the day of 20....., in respect of of.....

NOW I,, the Probation Officer assigned in respect of the Order, report that the person in respect of whom the Order was made has failed without reasonable cause or excuse to comply with the Order (or a requirement in respect of the Order) in that —

[] the person failed to report;

[] the person failed to comply with the following directions:

.....
.....

[] the person failed to work as instructed, in particular:

.....
.....

[] (other reasons)

.....
.....

Dated this day of 20.....

.....
Probation officer

**FORM G
SEYCHELLES**

IN THE SUPREME COURT/MAGISTRATE COURT

The Probation of Offenders Act

(Cap. 184)

Case No.....

**APPLICATION TO VARY COMMUNITY SERVICE
ORDER**

The day of 20.....

By

(Name of applicant) Applicant

(Name of respondent) Respondent

The applicant states that by an Order duly made on the day of 20....., under section 5A of the Probation of Offenders Act (*Cap 184*) by the Supreme Court's/Magistrate Court's sitting at Seychelles (*the applicant or if the applicant is the offender, the name of the offender*) was ordered (*state shortly the terms of the original order and of any subsequent Order*) and the applicant now applies for a variation of the Order on the ground that

Taken before me

Dated this day of 20.....

.....
Judge/Magistrate

**FORM H
SEYCHELLES**

IN THE SUPREME COURT/MAGISTRATE COURT

The Probation of Offenders Act

(Cap. 184)

Case No.....

COMMUNITY SERVICE ORDER

CERTIFICATE REGARDING HOURS WORKED

WHEREAS a community service order/s was/ were made by the Supreme/Magistrate Court at on the Day of 20....., in respect of..... of

NOW I the assigned officer in respect of the Order/s, report that the person in respect of whom the Order/s was/were made has performed a total of hours of community service work.

Dated this day of 20.....

.....
Probation officer”.

MADE this 16th day of October, 2015.

**VINCENT MERITON
MINISTER OF SOCIAL AFFAIRS, COMMUNITY
DEVELOPMENT AND SPORTS**
