

COMMUNITY SERVICE ORDERS

Criminal Justice (NI) Order 1996

<u>Description</u>	<u>Minimum Requirements</u>	<u>Permissible Duration/Conditions</u>	<u>Cases</u>	<u>Notes</u>
<p>An order requiring D to perform unpaid work for a specified number of hours.</p> <p>A community service order is a 'community order'. [Art.2(1)]</p>	<p>D must be 16 years old or over. [Art.13(1)]</p> <p>The offence for which D is being sentenced must be punishable with imprisonment. [Art.13(1)]</p> <p>The sentence for the offence must not be fixed by law (i.e. not a mandatory life sentence or a minimum custodial sentence under Article 70(2) of the Firearms (NI) Order 2004 or paragraph 2(4) or (5) of Schedule 2 to the Violent Crime Reduction Act 2006). [Art.13(1)]</p>	<p>The number of hours D is required to work under the order shall be specified in the order and shall be in the aggregate not less than 40 but not more than 240. [Art.13(2)]</p> <p>(a) The order 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 by the order or orders shall be such as in the opinion of the court are commensurate with the seriousness of the offence, or the combination of the offence and one or more offences associated with it. [Art.8(2)]</p> <p>In forming any such opinion for (a) above, a court may take into account any information about the offender which is before it. In forming any such opinion for (b) above, 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 it. [Art.9(1)&(2)]</p> <p>Community service orders can be imposed concurrently or consecutively to each other, but if consecutive the total length can not exceed 240 hours. [Art.13(5)]</p> <p>Can not impose a community service order together with a probation order unless they both form part of a 'Combination Order' [Art.8(3)], but can be imposed at the same time as a fine, an order for costs, a compensation order, a forfeiture order, a restitution order or an order of disqualification [Art.13(11)].</p>	<p><i>R v Rice</i> (15 April 1997) (NICC) - General principles</p> <p><i>R v Fergie</i> [2007] EWCA Crim 1883 - General Principles.</p> <p><i>Re Weatherall</i> [1984] 19 NIJB 1 - Legitimate expectation</p> <p><i>R v Moss</i> [1983] 5 Crim App R(S) 209 - Legitimate expectation</p> <p><i>R v Meredith</i> (1994) 15 Cr App R(S) 528 - Consecutive orders to be treated as single order.</p> <p><i>Thorpe v Griggs</i> (1984) 6 Cr App R(S) 286 - Service of order on D.</p> <p><i>R v Starie</i> (1979) 1 Cr App R(S) 172 - Should not impose community service order at same time as imprisonment or a suspended sentence.</p> <p><i>R v Fonteneau</i> [2001] 1 Cr App R(S) 15 - Imposing order when D is near end of custodial sentence.</p> <p><i>Gilding v DPP</i> (29 April 1998)(EWHC) - Can not imposed Probation Order at same time as Community Service Order.</p>	<p>Art.13(7) - Before making a community service order, the court shall-</p> <p>(a) state in open court that it is of the opinion that Art.8(2)(a) and (b) apply and why it is of that opinion; and</p> <p>(b) explain to the offender in ordinary language-</p> <p>(i) why it is making a probation order;</p> <p>(ii) the effect of the order;</p> <p>(iii) the consequences if he fails to comply with any of the requirements of the order; and</p> <p>(iv) that the court has power to review the order on the application either of the offender or of the supervising officer.</p> <p>(A magistrates' court is required to have such reasons entered in the Order Book. [Art.13(7)])</p> <p>Sch.13 to the Criminal Justice Act 1982 – Ability to make community service order where D resides in E&W or Scotland.</p>
<u>Textbooks</u>	<p>D must consent to the order. Also, the court must be satisfied that D is a suitable person to perform work under such an order and that provision can be made by the Probation Board for him to do so. [Art.13(4)]</p> <p>The court must be of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant such a sentence. [Art.8(1)]</p> <p>The court must obtain and consider a PSR [Art.9(3)] unless, in the circumstances of the case, it is of the opinion that a PSR is unnecessary. Where the court does not obtain a PSR, it shall state in open court that it is of that opinion and what the circumstances are [Art.9(4)]. NB. Difference if D under 18 [Art.9(5)].</p>			
<p>Blackstone (2010), E9.48-9.55</p> <p>Valentine, Folder 7, pg.31-32</p> <p>Allen & McAleenan, 1.201-1.220</p>				