

1989 No. 191

CRIMINAL LAW, ENGLAND AND WALES

The Community Service Orders Rules 1989

| | |
|-------------------------------|---------------------------|
| <i>Made</i> - - - - | <i>14th February 1989</i> |
| <i>Laid before Parliament</i> | <i>23rd February 1989</i> |
| <i>Coming into force</i> | <i>1st April 1989</i> |

In exercise of the powers conferred upon me by sections 48(1) and (2) of the Powers of Criminal Courts Act 1973(a), I hereby make the following Rules:

Commencement and interpretation

1.—(1) These Rules may be cited as the Community Service Orders Rules 1989 and shall come into force on 1st April 1989.

(2) In these Rules—

“the Act of 1973” means the Powers of Criminal Courts Act 1973;

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

“relevant officer” has the same meaning as it has in sections 14 to 17 of the Act of 1973;

“supervisor” means the person appointed to supervise the performance of work under the community service order at any particular time and who is responsible for ensuring that the work is satisfactorily performed;

“working day” means any day other than a Saturday or Sunday, Good Friday, Christmas Day or any bank holiday.

Arrangements for persons to perform work under community service orders

Information for offenders

2.—(1) Every probation committee shall make arrangements for persons subject to community service orders in its area to be given written information in ordinary language concerning such orders, including information as to the meaning of community service and the obligations of offenders, guidance as to attendance and the action to be taken by an offender if prevented from attending work by illness or other unavoidable reason, and information as to the consequences which may follow under section 16 of the Act of 1973 if an offender fails to comply with the requirements of an order and as to the powers of the courts to amend and revoke orders under section 17 of that Act.

(2) The relevant officer shall, on the first occasion on which an offender reports to him, ensure that the offender is given a copy of the written information mentioned in the preceding paragraph and that he understands it.

Group placements, etc

3.—(1) Every probation committee shall secure that the arrangements for persons to perform work under community service orders for its area shall include provision—

(a) for work to be available designed to improve the appearance and amenities of the neighbourhood, and

(b) to enable every person in respect of whom a community service order is made specifying a number of hours of not less than 60 to be required to perform work for at least 21 of those hours in a group placement.

(2) Subject to paragraph (3) below, every person required to work under any community service order made on or after the date on which these Rules come into force which specifies a number of hours of at least 60 shall be required to perform work in a group placement for at least 21 of those hours.

(3) The preceding paragraph shall not apply to any offender—

- (a) who is considered by the relevant officer to be physically or mentally unsuited to work in a group placement; or
- (b) who is unsuited to work in a group placement because he is considered by the relevant officer to be likely to disrupt the work of other offenders or be a bad influence on them; or
- (c) who could perform work in a group placement only by travelling for at least two hours in each direction before and after a period of work; or
- (d) who is considered by the relevant officer to have special domestic responsibilities and who could perform work in a group placement only by travelling for at least one hour in each direction before and after a period of work.

(4) For the purposes of this rule, “work in a group placement” means work of a manual nature in which at least one other offender has been instructed to participate at the same time.

Commencement of work

4.—(1) Subject to paragraph (2) below, the relevant officer shall arrange for an offender’s performance of work under the order to begin no later than the tenth working day following that on which the relevant officer is notified that the community service order in question has been made.

(2) The relevant officer may permit an offender to begin to perform work under a community service order later than the tenth working day following that on which he is notified of the making of the order if the relevant officer is unable before then to obtain sufficient information about the offender and his circumstances to enable him to satisfy himself that the work then available may be performed by that offender without undue risk to the public, or if the illness of the offender or other exceptional circumstances make such delay unavoidable.

Reckoning of time worked under community service orders

5. Time spent by an offender in travelling shall not be reckoned as time worked under the order except where he travels under the supervision of his supervisor.

6.—(1) While performing work under a community service order an offender shall be required to comply with any reasonable directions of the supervisor as to the manner in which the work is to be performed and with any rules reasonably imposed by the supervisor in the place of work having regard to the circumstances of that workplace, the interests of health or safety or the interests and well-being of other persons present.

(2) Where an offender—

- (a) fails to comply with any such direction or rule as is mentioned in the preceding paragraph or
- (b) in any other way fails satisfactorily to perform the work he has been instructed to do or
- (c) behaves in a disorderly or disruptive manner or in a manner likely to give offence to members of the public or any person for whose benefit the work is being performed or
- (d) reports for work later than the appointed time

he may (without prejudice to any proceedings for failure to comply with the requirements of the community service order under section 16 of the Act of 1973) be required to cease work that day and may in addition be required to leave the place of work forthwith; and where he is so required to cease work, the relevant officer may direct that some or all of any period of work for that day shall not be reckoned as time worked under the community service order.

7.—(1) Where bad weather prevents the performance of work for a continuous period of at least 30 minutes, it shall be open to the supervisor, at the request of the person or organisation for whose benefit the work is being performed, to require the offender to remain in the expectation of its being possible to resume work; in any other case the supervisor may make arrangements for the offender to perform work at some other place or, where that is not practicable, shall dismiss the offender for the remainder of that day.

(2) Any time during which bad weather prevents or interrupts the performance of work may not be reckoned as time worked under a community service order except that—

- (a) subject to paragraph (b) below, not more than one hour during which the offender remains at the place of work in the charge of the supervisor may be reckoned as time worked, and
- (b) where the supervisor, at the request of the person or organisation for whose benefit the work is being performed requires the offender to remain, the whole of the time during which the offender so remains may be reckoned as time worked.

Failure to attend, etc

8.—(1) Where an offender fails to attend for work on a day when he has been instructed to do so by the relevant officer or where he is required to cease work in accordance with rule 6(2) above, the supervisor shall take steps to inform the relevant officer of the failure or other alleged misconduct; and the relevant officer shall, on the day on which he is so informed or the next following working day, seek (orally or in writing) from the offender an explanation for the failure or his account of the misconduct.

(2) The relevant officer shall make a record of the explanation or account. He shall also record his opinion as to whether an explanation for a failure to attend or to attend on time amounts to a valid reason for the failure. In considering whether or not there was a valid reason, the relevant officer shall have regard to whether or not any failure to attend or lateness in attendance was due to medical reasons, family or religious responsibilities, requirements of the offender's employment or other circumstances beyond the control of the offender, and in each case whether the circumstances arose so late that it was reasonable for the offender to have failed to inform the relevant officer in advance and to seek fresh instructions from him.

(3) In a case in which the relevant officer considers that there was not a valid reason for a failure to attend or that there has been a failure to comply with any other requirement of the community service order, he shall either—

- (a) lay an information before a justice of the peace in accordance with section 16(1) of the Act of 1973, or
- (b) send a warning letter to the offender reminding him of his obligations under the community service order and of the consequences which may follow under the said section 16 if he fails again to comply with its requirements.

Records

9.—(1) Every probation committee shall secure that arrangements are made for records to be kept of the work done by offenders in its area, and for such records to be maintained in an identical form in respect of each such offender.

(2) The relevant officer or a person nominated by him shall make a report on an offender in respect of any week during which the offender has been instructed to perform work under the order. Such report shall include a record of the time worked during the week in question, the total time worked under the order and the number of hours which remain to be worked. A copy of each such report shall be given to the offender and, if it is made by another person, to the relevant officer.

(3) The relevant officer shall maintain records of any action taken by him in pursuance of rule 8(3) above.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules regulate the performance of work under community service orders and the arrangements for persons to perform such work. Rule 2 requires the arrangements made for community service work to include the provision of information for those required to perform it; and rule 3 requires those arrangements to make provision for certain kinds of work. Rule 4 requires work under a community service order normally to be commenced soon after the making of the order. Rules 5, 6 and 7 make provision as to the reckoning of time worked under such an order. Rule 8 establishes procedures to ensure the satisfactory performance of work. Rule 9 provides for the maintenance of records of work performed.

£85p net

ISBN 0 11 096191 9