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**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**COMMUNITY BASED CORRECTIONS
ACT, No. 46 OF 1999**

[Certified on 10th December, 1999]

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*Community Based Corrections
Act, No. 46 of 1999*

[Certified on 10 th December, 1999]

L.D.-O.28/99.

AN ACT TO MAKE PROVISION FOR THE IMPOSITION OF COMMUNITY
BASED CORRECTION ORDERS BY COURTS IN LIEU OF SENTENCES OF
IMPRISONMENT; FOR THE APPOINTMENT OF A COMMISSIONER OF
COMMUNITY BASED CORRECTIONS; AND FOR MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows:-

1. (1) This Act may be cited as the Community Based Corrections Act, No. 46 of 1999;

Short title and
date of operation.

(2) Parts I and III of this Act shall come into operation on
the day on which this Act becomes an Act of Parliament.

(3) Part II of this Act shall come into operation on such
date as the Minister may appoint by Order published in the
Gazette. Different dates may be appointed in respect of different
judicial divisions or judicial zones.

PART I

COMMISSIONER OF COMMUNITY BASED CORRECTIONS

2. (1) There may be appointed, by name or by office, a
Commissioner of Community Based Corrections (hereinafter
referred to as “the Commissioner”) and such number of Deputy
and Assistant Commissioners of Community Based
Corrections and other officers as may be necessary for the
implementation of the provisions of this Act.

Appointment of
Commissioner of
Community
Based Corrections
& c.

(2) The act of appointment of every Deputy and Assistant
Commissioner of Community Based Corrections shall specify
whether he is appointed as such for the whole of Sri Lanka or
any part thereof.

Deputy
Commissioners
and assistant
Commissioners.

3. Every Deputy Commissioner of Community Based Corrections and every Assistant Commissioner of Community Based Corrections may, subject to the general direction and control of the Commissioner, exercise, perform or discharge, within the area for which he is appointed, all or any of the powers, duties or functions conferred or imposed on, or assigned to the Commissioner by or under this Act.

Functions of the
Commissioner.

4. It shall be the function of the Commissioner -

- (a) to exercise control over the community corrections centres established for the purposes of this Act and over the Deputy Commissioners of Community Based Corrections. Assistant Commissioners of Community Based Corrections and other officers of the Department of Community Based Corrections;
- (b) to arrange with appropriate bodies, for the carrying out of community based correction orders;
- (c) to provide advice to courts regarding the suitability of offenders for community based correction orders;
- (d) to ascertain, identify, and advise, courts on the facilities available for carrying out community based correction orders;
- (e) to provide advice concerning the most appropriate programme or special condition to be attached to a community based correction order proposed to be entered by court;
- (f) to monitor, and provide surveillance and supervision of, offenders in respect of whom community based correction orders have been entered;
- (g) to inform court of the failure to comply with any condition of a community based correction order with a view to instituting proceedings under section 14;

- (h) to apply for variation of a community based correction order, where necessary.
- (i) to provide Community education regarding correctional principles, objectives and programmes.

PART II

COMMUNITY BASED CORRECTION ORDERS

5. (1) Notwithstanding any thing in any other Law, where an offender is convicted of an offence other than.

Community based correction orders.

- (a) an offence for which the imposition of a minimum sentence of imprisonment is mandatory; or
- (b) an offence, the penalty prescribed for which includes a term of imprisonment exceeding two years.

the court may, in lieu of imposing a sentence of imprisonment or a suspended sentence of imprisonment or fine on such offender but subject to sections 6,7 and 8 enter an order (hereinafter referred to as a “Community based correction order”) in the prescribed form, in respect of such offender.

(2) In entering a community based correction order in respect of an offender, the court shall have regard to the nature and gravity of the offence committed by the offender and the other circumstances relating to the commission of such offence, the pre-sentence report, if any, furnished in respect of the offender and the facilities available for carrying out such order.

6. (1) If a court finds a person guilty of an offence, it may, before passing sentence on such person and for the purpose of -

Pre-sentence Report.

- (a) determining whether it is suitable to enter a community based correction order in respect of the offender;

- (b) ascertaining whether there are facilities for carrying out such order.
- (c) Obtaining advice as to the most appropriate conditions that should be attached to the proposed order,

require the Commissioner to furnish to court, a written or oral pre-sentence report on such offender on or before a specified date and at a specified place, and may adjourn proceedings to enable the report to be prepared:

Provided however that where the court adjourns proceedings as aforesaid, it shall fix the place, date and time for the passing of sentence.

(2) If a court adjourns the sentencing of an offender under the provisions of this section it may release the offender on bail.

(3) Where the Commissioner has been required to furnish a pre-sentence report, orally, the Commissioner shall present his report in open court, and the offender to whom the report relates or his or her attorney-at-law shall be entitled to challenge the contents of such report.

(4) (a) Where the Commissioner has been required to furnish his pre-sentence report in writing, the Commissioner shall, a reasonable time before the date fixed for the passing of sentence, cause a copy of his report to be made available, on such terms with regard to confidentiality as he deems fit, to the offender to whom the report relates or his or her attorney-at-law and to the Attorney-General.

(b) If the offender or the Attorney-General disputes the whole or any part of the written pre-sentence report furnished to court by the Commissioner, he or she may file a motion in court indicating his or her intention to do so.

(c) The court shall not take into consideration, for the purposes of sentence, a pre-sentence report in respect of which a motion has been filed under paragraph (b), unless the offender to whom the report relates or his or her attorney-at-law and the Attorney-General have been afforded an opportunity of leading evidence on disputed matters and of cross-examining the author of the report on its contents.

(5) The Commissioner or any person authorized by him may make such inquiries and investigations as may be necessary (including the examination of any records relating to the offender), for the preparation of a pre-sentence report he is required to furnish to court.

(6) Subject to any special directions given by court, a pre-sentence report furnished to court by the Commissioner in compliance with a requirement imposed on him under subsection (1), shall set out all such matters as appear to the Commissioner to be relevant to the sentencing of the offender and as are readily ascertainable by him, including the following :-

- (a) the age of the offender;
- (b) the social history and background of the offender (including the names and ages of the persons who are dependant on the offender);
- (c) the medical and psychiatric history of the offender;
- (d) the educational background of the offender;
- (e) the employment history of the offender;
- (f) any other offences of which the offender has been found guilty or for which he or she is charged or indicted;
- (g) the extent to which the offender has complied with any earlier sentence or is complying with any sentence currently in force in respect of him or her;

- (h) the financial circumstances of the offender;
- (i) any special needs of the offender;
- (j) the employment history of the offender's spouse and the income earned by him or her;
- (k) the courses, programmes, treatment or other assistance that could be made available to the offender and from which he or she may benefit;
- (l) the facilities available for the performance of unpaid community work.

(7) Where the court takes into consideration, for the purposes of sentence, a pre-sentence report the contents of which have been disputed in whole or in part, the court shall record its reasons for doing so.

Consent of the offender required for community based correction order.

7. No community based correction order shall be entered in respect of an offender, unless the offender consents in writing, in the prescribed form, to the entering of such order.

Effect of order to be explained to the offender.

8. Before entering a community based correction order in respect of an offender, the court shall explain to the offender in language that may readily be understood by the offender -

- (a) the purpose and effect of the proposed order;
- (b) the consequences that will follow if the offender fails without reasonable cause to comply with the conditions of the proposed order; and
- (c) the manner in which the proposed order may be varied.

Conditions of community based correction orders.

9. (1) Every community based correction order shall be in the prescribed form and shall contain the following conditions-

- (a) that the offender shall not commit, during the period of the order, another offence punishable on conviction with imprisonment;

- (b) that the offender reports to a specified community corrections centre within seventy two hours of the date of the order;
- (c) that the offender reports to, and receives visits from, an officer of the Community Based Corrections Department on such dates as may be specified by the officer in charge of that community corrections centre;
- (d) that the offender notifies the officer in charge of the community corrections centre specified in the order at least seven days before such change, of any change of address, employment or occupation;
- (e) that the offender does not leave a specified area except with the permission of the officer in charge of the community corrections centre specified in the order, being permission granted either generally or in relation to a particular case;
- (f) that the offender obeys all lawful rules, instructions and directions issued by officers appointed under section 2.

(2) The court may, for the purposes of -

- (a) enabling any personal factors which contributed to the offender's criminal behaviour to be assessed;
- (b) providing an opportunity for the offender to recognize, to take steps to control, and if necessary, to receive treatment for, those factors; and
- (c) enabling an offender with needs in areas directly related to his or her criminal behaviour, to participate in programmes designed to address those needs,

attach one or more of the following conditions to a community based correction order:-

- (i) that the offender performs unpaid community work as directed by the officer in charge of the community corrections centre specified in the order for the period determined by court;

- (ii) that the offender be under the supervision of an officer of the community Based Corrections Department designated by the Commissioner;
- (iii) that the offender attends educational, vocational, personal training or development programmes determined by court and as directed by the Commissioner; an offender with high needs in areas directly related to his or her criminal behaviour may be required to participate in programmes which will address those needs;
- (iv) that the offender undergoes assessment and treatment for alcohol or drug addiction or submits to medical, psychological or psychiatric assessment and treatment as directed by court;
- (v) that the offender submits to testing for alcohol or drug use as directed by the officer in charge of the community corrections centre specified in the order;
- (vi) any other condition that the court considers necessary or desirable, having regard to the purposes for which the order is being entered.

(3) In determining for the purposes of a community based correction order, the period for which the offender in respect of whom the order has been entered shall perform unpaid community work, the court shall have regard to the provisions of the Schedule to this Act, so however, that where the term of imprisonment or the fine for which the offender is liable for the offence in respect of which the order is entered does not exceed the term or amount specified in Column I of that Schedule, the period of unpaid community work shall, as far as practicable, be equal to the period specified in the corresponding entry in Column II of that Schedule.

(4) An offender directed to perform unpaid community work under a community based correction order shall, in any period of seven days, perform unpaid community work for not less than ten hours and not more than twenty-four hours;

Provided that the Commissioner may, on a request made to him in writing by an offender, allow that offender to work for upto forty hours in any period of seven days.

(5) If the Commissioner is satisfied that an offender is ill or that there are other exceptional circumstances he may notwithstanding anything in subsection (4), permit the offender to perform less than ten hours of unpaid community work in a period of seven days;

Provided however that permission given under this subsection shall be deemed not to affect the duty of the offender to perform unpaid community work for the number of hours specified in the community based correction order entered in respect of the offender.

(6) If a court makes separate community based correction orders in respect of two or more offences committed by an offender, the conditions of those orders shall be concurrent, unless the court otherwise directs.

(7) The conditions of a community based correction order made in respect of an offender shall, unless the court therwise directs, be concurrent with those of any other community based corrections order in force in respect of that offender.

(8) A court shall not give a direction that would result in the total number of hours of unpaid community work yet to be performed by an offender under a Community based correction order, exceeding five hundred hours.

10. In assigning the unpaid community work to be performed by an offender in respect of whom a community based correction order has been entered, the officer in charge of the community corrections centres specified in such order shall have regard to the age, health, education and the religious and cultural beliefs of the offender, the distance of the proposed worksite from the residence or place of employment of the offender and the possible interruption of the education or employment of the offender.

Factors to be considered in assigning unpaid community work.

Variation of
community
based correction
orders.

11. During the continuance in force of a community based correction order, the court entering such order may -

- (a) upon application made by the offender in respect of whom the order is entered or the Commissioner; and
- (b) upon being satisfied that-
 - (i) the circumstances of the offender have materially altered since the order was entered and as a result the offender will not be able to comply with any condition of the order; or
 - (ii) the circumstances of the offender were wrongly presented, or were not accurately presented, to the court or the author of the pre-sentence report, before the order was made;
 - (iii) the offender is no longer willing to comply with the order.

vary the order or cancel it and subject to subsection (2), deal with the offender for the offence or offences in respect of which it was entered in any manner in which the court could deal with the offender if it had just found him or her guilty of that offence or those offences.

(2) Notice of every application made under subsection (1) to vary or cancel a community based correction order shall be given to the offender to whom the order relates, the Commissioner and to the Attorney-General.

(3) In dealing with an offender following the cancellation of a community based correction order entered in respect of that offender, the court shall have regard to the extent to which the offender had complied with the conditions of the order before its cancellation.

Commissioner
may direct
offender to
appear before
another person or
at another place
& c.

12. (1) Where it is not convenient for an offender in respect of whom a community based correction order has been entered, to report to the community corrections centre specified in the community based correction order, by reason of change of place of residence or work place or other cause.

he or she shall forthwith inform the Commissioner, and the Commissioner may direct the offender to report at another community corrections centre.

(2) An offender shall attend at the place or report to the person, as directed by the Commissioner under subsection (1) as if such place or person were specified in the community based correction order entered in respect of such offender.

13. Where the Commissioner is satisfied that an offender in respect of whom a community based correction order has been entered is unable to comply with the order by reason of illness or other exceptional cause, the Commissioner may suspend the operation of the order or any condition thereof for a specified period, and the period so specified shall be disregarded in calculating the period for which the community based correction order shall remain in force.

Suspension of
community
based correction
order.

14. (1) Any offender who fails without reasonable cause, to comply with any condition of a community based correction order shall be guilty of an offence under this Act, and shall be liable, on conviction after summary trial, to a fine not exceeding five thousand rupees.

Failure to
comply with
community
based correction
order an
offence.

(2) Where a person commits an offence under subsection (1) the Commissioner shall institute proceedings in respect of that offence by making a written report to the Court which entered the community based correction order in relation to which the default is alleged to have been made, to the effect that the person specified in the report has failed to comply with the conditions of the order specified in the report.

(3) Upon the making of a written report to it under subsection (2) in respect of an offence under subsection (1), the court may issue summons or warrant of arrest on the offender and proceed to try such offence in the manner provided by the Code of Criminal Procedure Act. No. 15 of 1979 for the trial of offences summarily.

(4) Upon the conviction of any person for an offence under sub section (1), the court may -

(a) vary the community based correction order in respect of which the default was made;

(b) cancel such order.

if such order is for the time being in force.

(5) Upon the cancellation of a community based correction order, the court may subject to the provisions of sub section (6) deal with the offender for the offence or offences in respect of which the order was entered in any manner in which the court could have dealt with the offender had it just found him or her guilty of that offence.

(6) In dealing with an offender following the cancellation of a community based correction order, the court shall have regard to the extent to which the offender had complied with the conditions of the order before its cancellation.

Effect of part
payment of fine
or completion
of programme
condition of
order.

15. (1) Where an offender in respect of whom a community based correction order has been entered for default of payment of a fine, pays to court, at any time during which the order is in force, a part of that fine the commissioner shall, upon proof of payment, reduce the period specified in such order by such period as is equal to the proportion which the amount paid bears to the amount of the fine:

Provided that the other conditions of the order shall continue to be in force.

(2) Where the only condition attached to a community based correction order is the performance of unpaid community work by the offender to whom the order relates and the Commissioner issues a certificate to the effect that such offender has satisfactorily performed the community work assigned to him or her during the period specified in the order, the offender shall be deemed to have complied with the conditions of such order.

PART III

GENERAL

16. (1) The Minister may make regulations for the purposes of carrying out or giving effect to the principles and provisions of this Act and in respect of all matters which are required or authorized by this Act to be prescribed.

Regulations.

(2) Every regulation made by the minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette, be laid before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded with effect from the date of such disapproval without prejudice to anything previously done thereunder. Notification of the date on which a regulation is so deemed to be rescinded shall be published in the Gazette.

17. (1) The Commissioner may make rules in respect of the administration and management of community correction centres established for the purposes of this Act or of a particular community correction centre.

Rules.

(2) No rule made under sub section (1) shall have effect until it is approved by the Minister and notification of such approval is published in the Gazette.

18. Where Part II of this Act is brought into operation in any judicial division or judicial zone, by an Order made under section I, courts exercising criminal jurisdiction in that judicial division or judicial zone, as the case may be, shall cease to exercise the powers conferred on them by section 18 of the Criminal Procedure Code Act, No. 15 of 1979.

Application of
section 18 of
Act No. 15 of
1979.

Sinhala text to prevail in case of inconsistency.

19. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Interpretation.

20. In this Act, “judicial division” and “judicial zone” mean a judicial division and judicial zone determined respectively, by an order made under section 3 of the judicature Act, No. 1 of 1978.

SCHEDULE

[Section 9(3)]

<i>Column I</i>	<i>Column II</i>
TERM OF IMPRISONMENT OR AMOUNT OF FINE	PERIOD OF UNPAID COMMUNITY WORK
1 year or over.	200 to 300 hours over a period of 1 year
6 months or over but less than 1 year.	100 to 200 hours over a period of 6 months
Less than 6 months	50 to 100 hours over period of 3 months.
Five thousand rupees or over.	200 to 300 hours over a period of two years.
Four thousand rupees or over but under five thousand rupees.	150 to 200 hours over a period of one and a half years.
Three thousand five hundred rupees or over but under four thousand rupees.	75 to 150 hours over a period of one year.
Three thousand rupees or over but under three thousand five hundred rupees.	50 to 75 hours over a period of six months.
Below three thousand rupees.	50 to 75 hours over a period of three months.

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