

COMMUNITY SERVICE ORDERS (FINE DEFAULT) AMENDMENT BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

Children (Community Service Orders) (Fine Default) Amendment Bill 1987;

Miscellaneous Acts (Fine Default) Amendment Bill 1987.

The object of this Bill is to amend the Community Service Orders Act 1979 to enable certain persons who default in payment of a fine to work off the fine by community service work.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a proclaimed day or days.

Clause 3 gives effect to the Schedule of amendments.

Clause 4 applies the provisions of the proposed Act to existing fine defaulters.

Schedule 1 (1) amends the Principal Act by dividing it into Parts.

Schedule 1 (2) amends section 3 of the Principal Act as a consequence of the amendments made by Schedule 1 (4) and (5) (b).

Schedule 1 (3) amends section 13 of the Principal Act as a consequence of the amendment made by Schedule 1 (5) (b).

Schedule 1 (4) inserts Part 3 (Fine Default) into the Principal Act. The Part contains the following provisions:

Proposed section 26A requires a prescribed officer to make a community service order in respect of a person who has not paid a fine imposed by a Local Court. Such an order cannot be made in respect of a person serving a term of imprisonment or in other special circumstances, for example, where the person has been dealt with by cancellation of a licence or registration under the Motor Traffic Act 1909.

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Proposed section 26B enables a person in respect of whom a warrant of commitment for non-payment of a fine has been issued to apply to the prescribed officer for an order to work off the fine by community service work. The prescribed officer has a discretion in this instance to make the order.

Proposed section 26C sets out the method of calculating the period of community service work to be performed for non-payment of a fine. The rate on commencement of the proposed section is to be 4 hours for each \$50 of the fine (with a minimum of 8 hours of community service work to be performed), but the monetary amount may be subsequently varied by regulation. An order may not be made requiring the performance of work in excess of 300 hours. Community service work under a community service order relating to a person is to be performed in addition to, and not concurrently with, work under any other community service order relating to the person.

Proposed section 26D applies section 9 (Place etc. and time for presentation for work) and subsection (1) of section 10 (Conditions) of the Principal Act to community service orders for fine default.

Proposed section 26E requires notice of the making of a community service order for fine default to be sent to the Corrective Services Commission.

Proposed section 26F requires the Corrective Services Commission to assign a probation officer to administer each community service order for fine default.

Proposed section 26G applies section 14 (Obligations of persons in respect of whom orders are in force) and section 15 (Directions) of the Principal Act to community service orders for fine default.

Proposed section 26H specifies the period for which a community service order for fine default remains in force.

Proposed section 26I provides that a community service order for fine default is considered to be satisfied on payment of money outstanding in respect of the fine.

Proposed section 26J provides that if a person serving community service work under a community service order for fine default is sentenced to imprisonment, the order is considered to be satisfied.

Proposed section 26K enables an authorised Justice, after hearing submissions from a person in respect of whom a community service order for fine default is in force, to revoke the order if it has been breached. A warrant would then be issued committing the person to prison if money outstanding in respect of the fine remains unpaid.

Schedule 1 (5) (a) amends section 27 of the Principal Act as a consequence of the amendments made by Schedule 1 (4).

Schedule 1 (5) (b) amends section 27 of the Principal Act to enable the regulations under the Principal Act to authorise other persons to act for assigned officers (as defined in the Principal Act) in certain circumstances and to enable regulations to be made in relation to the service of documents under the Principal Act.
