

## SAMOA

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**2008, No.5**

**AN ACT to promote criminal justice by the provision of a community based justice system that fosters community based sentencing options and the rehabilitation and reintegration of offenders.**

*[25<sup>th</sup> January 2008]*

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART I**  
**COMMUNITY BASED JUSTICE SYSTEM**

**1. Short title and commencement-**(1) This Act may be cited as the Community Justice Act 2008.

(2) This Act shall commence on the date of assent by the Head of State.

**2. Purpose -** The purpose of this Act is to administer and operate a community based justice system that will promote public safety and contribute towards the maintenance of a just society by:

- (a) ensuring that sentences are administered in a fair and effective manner; and
- (b) reducing re-offending by managing the rehabilitation of offenders and their reintegration into society; and
- (c) providing useful and timely information to Courts and the Prisons Parole Board to assist them in determining decisions relating to the rehabilitation and reintegration of offenders and prisoners.
- (d) providing opportunities for the community to participate in the rehabilitation and reintegration of offenders;
- (e) providing opportunities for Samoan custom and tradition to be recognised in the sentencing, rehabilitation and reintegration of offenders;
- (f) ensuring that Samoan custom and tradition is integrated, where appropriate, in the community justice system.

**3. Objects of the Act -** The principal objects of this Act are:

- (a) the maintenance of public safety; and
- (b) the consideration of victims' interests; and

- (c) to ensure offenders undertaking sentences of supervision have access to rehabilitative and reintegration programmes; and
- (d) to ensure the fair treatment of offenders undergoing sentences of supervision or community work; and
- (e) to ensure offenders released on parole have access to rehabilitative and reintegration programmes; and
- (f) for offenders as far as is reasonable and practicable in the circumstances and within the resources available, to be given access to activities that may contribute to their rehabilitation and reintegration into the community; and
- (g) for Samoan custom and tradition, where appropriate, to be applied in the rehabilitation and reintegration of offenders.

**4. Interpretation** - In this Act, unless the context otherwise requires:

- “CEO” means the person appointed as head of the Ministry of Justice and Courts Administration;
- “Court” means any court exercising jurisdiction in any prosecution for an offence;
- “Minister” means the Minister responsible for the Ministry of Justice and Courts Administration;
- “Ministry” means the Ministry of Justice and Courts Administration;
- “offender” includes a person who is under control or supervision pursuant to a community based sentence and includes a person released from a prison on parole;
- “probation officer” means a person appointed as a probation officer under section 39 and includes a parole officer;
- “Principal Probation Officer” means the person appointed to manage the day to day activities of the Probation and Parole Service;

“staff or staff member” means all those persons employed in the Ministry including the Principal Probation Officer, probation officers and parole officers.

## **PART II**

### **COMMUNITY BASED SENTENCING**

**5. Purposes and Principles-**(1) The purpose of this Part is to provide to a Court a range of sentencing options and means of dealing with offenders other than by imprisonment. Where an offender is convicted of an offence punishable by imprisonment, the Court when considering the sentence it should impose, must have regard to the desirability of keeping offenders in the community so far as that is practicable and consistent with the safety of the community.

**6. Promotion of Custom and Tradition-**(1) Notwithstanding this Act or any other law, a Court may in criminal cases promote, encourage and facilitate a settlement, according to Samoan custom and tradition of any proceedings for an offence on terms of payment of compensation or other terms approved by the Court, which may in the court's discretion reduce the sentence it would otherwise have imposed including ordering the discharge, with or without conviction, of the offender.

(2) A Court may order a pre-sentence report if it considers that this would assist it in making a determination under this section and such report may include a recommendation that the offender be diverted in accordance with section 11 on such conditions as it thinks fit.

**7. Account to be taken of Compensation -** Upon entering a conviction the Court must in determining the nature of the penalty to be imposed, take account of any compensation or reparation made or due by the offender under Samoan custom and tradition and if such has not yet been determined, may, if satisfied that it will not cause undue delay, postpone sentencing for such purpose.

**8. Power to Impose Substituted or Alternative Penalty of Community Work to Fine-**(1) Where in any Act, Regulation, Rule or Order, a penalty of a fine is provided for any offence without any alternative penalty the Court may in its discretion impose a sentence of community work in lieu or as an alternative penalty.

(2) Where the Court imposes a sentence of community work under subsection (1) the offender will be under the management and supervision of a probation officer as if the offender had been sentenced to community work under Part III.

**9. Power to Impose Substituted or Alternative Penalty of Community Work or Supervision to Imprisonment-**(1) Where in any Act, Regulation, Rule or Order, a penalty of imprisonment is provided for any offence without any alternative penalty the Court may in its discretion impose a sentence of community work or supervision in lieu or as an alternative penalty.

(2) Where the Court imposes a sentence of community work or supervision under subsection (1) the offender will be under the management and supervision of a probation officer as if the offender had been sentenced to community work or supervision under Part III.

**10. Pre-Sentence Reports-**(1) A probation officer will, when required by a Court to do so, provide a pre-sentence report to the Court reporting on the character and personal history of any person convicted of any offence punishable by imprisonment, with a view to assisting the Court in determining the most suitable method of dealing with his or her case, and may in any such report advise the Court whether the offender would be likely to respond satisfactorily to a sentence of supervision or community work and whether any conditions of supervision should be imposed or recommend another sentence.

(2) The pre-sentence report must advise the Court of any reconciliation process or reparation made under Samoan custom and tradition.

(3) Where a Court requires a pre-sentence report the Court may remand the offender for such time as may be necessary to enable the report to be prepared and submitted to the Court.

(4) During the period of any remand the Court may remand the offender on bail or in custody as the Court deems appropriate.

(5) A copy of the pre-sentence report must be given to the counsel appearing for the offender or, if the offender is not represented, to the offender prior to sentencing.

(6) Failure to provide a copy of the pre-sentence report in accordance with this section will not affect the validity of the proceeding in any Court or of any order made or sentence passed by the Court.

**11. Diversion-**(1) Where a person appearing before a Court:

(a) does not have a previous conviction; and

(b) intimates a plea of guilty,

the Court may, if it does not consider the offending to be of a serious nature, in chambers or in open Court, instead of proceeding with the prosecution of the charge, refer the person charged to be considered for diversion under this section.

(2) Where the Court refers a person for diversion, the person charged will report within 24 hours to the probation service and a diversion agreement will be prepared by a probation officer.

(3) The diversion agreement will be signed by the probation officer and the person charged.

(4) The diversion agreement will include an acknowledgement of guilt and an undertaking by the person charged to complete any conditions contained in the diversion agreement within the specified timeframe and will specify what will occur to the person charged if the diversion agreement is not adhered to.

(5) The probation officer in preparing a diversion agreement may, where appropriate, encourage and facilitate the person to undertake or attempt to undertake with the complainant and the respective parties' families, reconciliation according to Samoan custom and tradition.

(6) A probation officer will supervise the diversion agreement and report back to the Court at either the completion of the diversion agreement or advise of the failure of the person charged to comply.

(7) If the diversion agreement is successfully completed, no further action will be taken against the person charged in respect of the offence to which the diversion agreement relates and any criminal charge laid, withdrawn.

(8) If the diversion agreement is not complied with, the person charged will be subject to prosecution as if the diversion agreement had not been entered into.

(9) Where, after the person charged is granted diversion, the person charged is subsequently sentenced on another matter to a term of imprisonment, diversion will be cancelled from the date that the person charged commences his or her sentence of imprisonment.

(10) An acknowledgment of guilt under subsection (4) is not admissible where diversion does not proceed and the charge against the person proceeds.

### **PART III** **SUPERVISION AND COMMUNITY WORK**

**12. Sentence of Supervision-**(1) A Court may sentence an offender to supervision if:

- (a) the offender is convicted of an offence punishable by imprisonment; or
- (b) the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a community based sentence may be imposed on conviction; or
- (c) it sentences an offender to a term of imprisonment of not more than 12 months and in such case the term of supervision imposed will commence on the offender's release from prison and must not exceed 12 months.

(2) The sentence of supervision may be for a period of not less than six months and not more than two years as the Court thinks fit.

(3) In addition to imposing a sentence of supervision, a Court may also impose a term of community work under section 19.

**13. Guidance on use of Sentence of Supervision-**(1) A Court may impose a sentence of supervision only if the Court is satisfied that a sentence of supervision would reduce the likelihood of further offending by the offender through the rehabilitation and reintegration of the offender.

(2) If a Court imposes a sentence of supervision in respect of each of 2 or more offences (whether on the same occasion or different occasions), the sentences must be served concurrently.

**14. Imposition of Conditions on Sentence of Supervision**

- An offender who is sentenced to supervision is subject to:

- (a) the standard conditions in section 15; and
- (b) any special conditions imposed under section 16.

**15. Standard Conditions of Sentence of Supervision-**(1)

If an offender is sentenced to supervision the following standard conditions apply:

- (a) the offender must report in person to a probation officer as soon as practicable and not later than 24 hours after the sentence is imposed; and
- (b) the offender must report to a probation officer as and when required to do so by a probation officer and must notify the probation officer of his or her place of residence; and
- (c) the offender must not move to a new place of residence without the prior written consent of a probation officer; and
- (d) the offender must take part in a rehabilitative and reintegrative needs assessment and/or programme if and when directed to do so by a probation officer; and
- (e) the offender must, where a probation officer directs that it is appropriate to do so, undertake or attempt to undertake with the complainant and the parties' respective

families reconciliation in accordance with Samoan custom and tradition.

(2) The conditions of subsection (1)(c), (d) and (e) do not apply if, and to the extent that, they are inconsistent with any special conditions imposed by the Court.

**16. Special Conditions of Sentence of Supervision-(1)**

If an offender is sentenced to supervision, the Court may impose such special condition or conditions related to the rehabilitation or integration of an offender as the Court thinks necessary.

(2) A Court must not impose a condition under this section that the offender pay any sum of money that is in the nature of a fine or reparation or that the offender perform any service that he or she could have been required to perform if he or she had been sentenced to community work.

**17. Variation or Cancellation of Sentence of Supervision-**

(1) An offender who is subject to a sentence of supervision, or a probation officer, may in accordance with section 32 apply for an Order under subsection (3) on the grounds that:

- (a) the offender is unable to comply, or has failed to comply, with any of the conditions of the sentence; or
- (b) any programme to which the offender is subject is no longer available or suitable for the offender; or
- (c) having regard to any change in circumstances since the sentence was imposed and to the matter in which the offender has responded to the sentence:
  - (i) the rehabilitation and reintegration of the offender would be advanced by the remission, suspension, or variation of conditions, or the imposition of additional conditions; or
  - (ii) the continuation of the sentence is no longer necessary in the interest of the community or the offender.

(2) A probation officer may apply for an Order under subsection (3) if an offender who is subject to a sentence of supervision is convicted of an offence punishable by imprisonment.

(3) On application under subsection (1) or subsection (2), the Court may, if it is satisfied that the grounds on which the application is based have been established:

- (a) remit, suspend, or vary conditions imposed by the Court or impose additional conditions; or
- (b) cancel the sentence; or
- (c) cancel the sentence and substitute any other sentence (including another sentence of supervision) that could have been imposed on the offender at the time when the offender was convicted of the offence for which the sentence was imposed.

(4) When determining a substitute sentence under paragraph (3) (c), the Court must take into account the portion of the original sentence that remains unserved at the time of the Order.

(5) If the Court cancels a sentence under this section, the sentence expires on the date that the Order is made or on any other date that the Court may specify.

(6) If an application is made under this section for the remission, suspension, or variation of any condition imposed by the Court, a probation officer may suspend the condition until the application has been heard and disposed of.

(7) Where, after an offender is sentenced to supervision, the offender is subsequently sentenced on another charge to a term of imprisonment, the sentence of supervision shall be cancelled from the date that the offender commences his or her sentence of imprisonment.

**18. Offences Related to Breach of Conditions of Supervision** - An offender who:

- (a) fails, without reasonable excuse, to comply with any condition of a sentence of supervision; or
- (b) fails, without reasonable excuse, to report when required to do so under section 15(1)(a), (b) or (c),

commits an offence, and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding 3 penalty units or both.

**19. Sentence of Community Work-(1)** A Court may sentence an offender to community work:

- (a) if the offender is convicted of an offence punishable by imprisonment; or
  - (b) if the offender is convicted of an offence and the enactment prescribing the offence expressly provides that a community-based sentence may be imposed on conviction.
- (2) The sentence may be for the number of hours, being not less than 40 or more than 400 as the Court thinks fit.
- (3) This section is subject to section 20.
- (4) A Court may require the probation service to prepare a community work assessment to ascertain whether community work is an appropriate sentence for the offender.

**20. Concurrent and Cumulative Sentences of Community Work** - If a Court imposes a sentence of community work on an offender who is already subject to a sentence of community work, the sentences will be served concurrently unless the Court directs that they are to be served cumulatively, but in such event, no offender shall undertake more than 400 hours community work in any one calendar year.

**21. Length of Sentence of Community Work-(1)** If the Court imposes a sentence of community work of 200 hours or less, that sentence must be served within 12 months of the date that it commences.

(2) If the Court imposes a sentence of community work of more than 200 hours, that sentence must be served within 24 months of the date that it commences.

(3) Any work done by an offender under a sentence of community work must be treated as having been done under that sentence and under any other concurrent sentence of community work that the offender was subject to at the time the work was done.

(4) A sentence of community work does not terminate until the hours of community work that the offender has been ordered to undertake have been completed.

**22. Offender must report to Probation Officer** - An offender who is subject to a sentence of community work must report in person to a probation officer:

- (a) as soon as practicable, and not later than 24 hours, after the sentence is imposed; and
- (b) as directed at any other time during the sentence for the purpose of monitoring the sentence.

**23. Offender must notify Probation Officer if Offender changes Place of residence** - If an offender who is subject to a sentence of community work moves to a new place of residence, the offender must, within 24 hours, notify a probation officer of the offender's new place of residence.

**24. Probation Officer must determine placement of Offender for Community Work**-(1) As soon as practicable after a sentence of community work is imposed, and at any other time during the sentence if the probation officer thinks fit, a probation officer must determine what type of work and when the community work will be done.

(2) For the purposes of subsection (1) the probation officer must take into account –

- (a) the circumstances of the offending; and
- (b) where appropriate, how the offender could benefit from learning work habits or skills through the sentence; and
- (c) the offender's character and personal history; and
- (d) the offender's physical and mental capabilities; and
- (e) whether there is any person or agency within a reasonable distance of the offender's place of residence that has sufficient suitable work available for the offender; and
- (f) any other relevant circumstances.

**25. Authorised Work for Person Sentenced to Community Work-**(1) The type of work that an offender may be required to perform for the purposes of a sentence of community work is:

- (a) work at or for any hospital or church or for any charitable, educational, cultural, or recreational institution or organisation; or
- (b) work at or for any other institution or organisation for old, infirm, or disabled persons, or at the home of any old, infirm, or disabled person; or
- (c) work on any land which is under the control or direction of the State, a village council or any public body.

(2) No offender may be directed for the purposes of a sentence of community work to do any work if, in doing so, the offender would take the place of any person who would otherwise be employed in doing that work in the ordinary course of that person's paid employment.

**26. When Community Work Must Be Done-**(1) The days on which and the times at which the offender does the community work must be fixed by agreement between a probation officer and the sponsor and notified in writing to the offender.

(2) For the purposes of this Part, "sponsor" means the person or agency for whom the community work is to be done and authorised by the probation officer to supervise the community work.

(3) It is not necessary for all the periods of work to be of the same duration, but no period may be longer than 8 hours and no offender may be required to do more than 40 hours of community work per week.

(4) The times at which the offender is required to report, and the periods during which he or she is required to do community work, must be such as to avoid interference, so far as practicable, with the offender's attendance at any place of education or employment, or with his or her religious observances.

**27. Supervision of Offender while doing Community Work** - An offender who is directed to do community work on placement with a sponsor is subject to the control, direction, and supervision of a probation officer (or under delegation a community justice supervisor) at all times while the offender is doing work or is required to be doing work under the sentence.

**28. Offender Excused from Reporting in Certain Circumstances**-(1) In special circumstances, a probation officer may excuse an offender from reporting on any day or during any period.

(2) Without limiting subsection (1), if an offender is unable to report on any day or during any period due to good cause, a probation officer may, on being satisfied (whether before or after the failure to report) with the circumstances of the case, excuse the offender from the requirement to report on that day or during that period.

**29. Variation or Cancellation of Sentence of Community Work**-(1) An offender who is subject to a sentence of community work, or a probation officer, may in accordance with section 32 apply for an order under subsection (3) of this section on the grounds that:

- (a) there has been a change of circumstances since the sentence was imposed that would justify the variation or cancellation of the sentence; or
  - (b) having regard to any change in circumstances since the sentence was imposed and to the manner in which the offender has responded to the sentence, the continuation of the sentence is no longer necessary in the interests of the community or the offender.
- (2) A probation officer may in accordance with section 32 apply for an order under subsection (3):
- (a) if an offender who is subject to a sentence of community work is convicted of an offence punishable by imprisonment; or
  - (b) on the grounds that the offender has behaved in a manner described in section 31(1) paragraphs (a) to (j).

(3) On an application under subsection (1) or subsection (2), the Court may, if it is satisfied that the grounds on which the application is based have been established:

- (a) vary the sentence by reducing the number of hours of work to be done; or
- (b) cancel the sentence; or
- (c) cancel the sentence and substitute any other sentence (including another sentence of community work) that could have been imposed on the offender at the time when the offender was convicted of the offence for which the sentence was imposed.

(4) When determining a substitute sentence under subsection (3)(c), the Court must take into account the portion of the original sentence that remains unserved at the time of the order.

(5) If the Court cancels the sentence, the sentence expires on the date that the order is made or on any other date that the court may specify.

(6) Where, after an offender is sentenced to community work, the offender is subsequently sentenced on another charge to a term of imprisonment, the sentence of community work shall be cancelled from the date that the offender commences his or her sentence of imprisonment.

**30. Extension of Period within which Community Work must be done-**(1) An offender who is subject to a sentence of community work, or a probation officer, may in accordance with section 32 apply for an extension of the period within which the work must be done on the grounds that the offender had a reasonable excuse for his or her failure to complete the prescribed hours.

(2) On an application under subsection (1), the Court may, if it is satisfied that the grounds in subsection (1) have been established, extend the period within which the work must be done by such amount that the Court thinks fit.

**31. Offences Relating to Breach of Sentence of Community Work-(1)** An offender who is sentenced to community work who:

- (a) fails, without reasonable excuse, to report to a probation officer in accordance with section 22; or
- (b) fails, without reasonable excuse, to notify a probation officer of any new place of residence in accordance with section 23; or
- (c) fails, without reasonable excuse, to do any work satisfactorily in accordance with the sentence; or
- (d) fails to comply with the terms of any agreement entered into under section 26(1); or
- (e) fails, without reasonable excuse, to complete the required number of hours of work within the period prescribed under section 21 or within any extended period granted under section 30; or
- (f) accepts remuneration for any work that the offender is required to do for the purposes of the sentence; or
- (g) fails, without reasonable excuse, to report or to remain at any place as required by or under this Part; or
- (h) fails, without reasonable excuse, to obey any directions lawfully given regarding the manner in which his or her time must be spent while under the supervision of a probation officer or community justice supervisor under section 27; or
- (i) refuses to work, or fails to work in the manner reasonably required of the offender, or neglects or intentionally mismanages his or her work, while under the supervision of a probation officer or community justice supervisor under section 27; or
- (j) behaves in an offensive, threatening, insolent, insulting, disorderly, or indecent manner while under the supervision of a probation officer or community justice supervisor under section 27.

commits an offence, and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding 3 penalty units or both.

(2) A person who, without lawful justification or excuse, loiters about any place where persons sentenced to community work are placed, and refuses or neglects to depart after being warned by a member of the police or by a probation officer, commits an offence, and is liable on conviction to a fine not exceeding 2.5 penalty units.

**32. Jurisdiction and Procedure-**(1) Subject to subsection (2) every application under section 17 or section 29 must be made to the Court which imposed the sentence on the offender.

(2) If the sentence was passed by the Court of Appeal on appeal from the Supreme Court, then the application will be referred to the Supreme Court or, where the sentence was imposed by the Supreme Court on appeal from a District Court, then the application will be heard in the District Court.

(3) A copy of the application must, either before or as soon as practicable after the application is lodged in the office of the Court, be served:

- (a) on the offender, if the offender is not the applicant;
- or
- (b) on the Principal Probation Officer, if a probation officer is not the applicant.

(4) If an application under section 17 or section 29 has been lodged in a Court a probation officer or a member of the police may, for the purpose of having the offender brought before the Court dealing with the application, apply to a Court for the issue of a warrant to arrest the offender.

(5) No warrant issued under subsection (4) may be executed otherwise than by a probation officer or member of the police.

**33. Appeal in Respect of Substituted Sentence** - An appeal may be lodged with the Supreme Court (the Court of Appeal when the order is made by the Supreme Court) appealing against the imposition of a substituted sentence under section 17 or section 29.

#### **PART IV** **ADMINISTRATIVE RESPONSIBILITY**

**34. Power and Functions of CEO** - The powers and functions of the CEO in relation to the community based justice system include:

- (a) ensuring that the community based justice system operates in accordance with the purpose and objects set out in sections 1 and 2; and
- (b) proposing policies on the management of the probation and parole service and ensuring that proposed policies are implemented; and
- (c) developing national programmes for the training of probation and parole officers to ensure the highest degree of professionalism amongst staff; and
- (d) commissioning or undertaking research on the good administration of parole and rehabilitation and reintegration models; and
- (e) commissioning or undertaking research on the good administration, programmes, and development of probation services; and
- (f) establishing and implementing such programmes of rehabilitation, education and vocational training for offenders as are necessary for their reintegration into society, subject to the availability of funding for that purpose; and
- (g) ensuring the welfare of offenders subject to community based sentences or conditions imposed by the Prisons Parole Board during the periods when they are in the presence of any staff member of the Ministry; and
- (h) ensuring that offenders carry out their sentences; and

- (i) visiting and inspecting any probation office or community work activity and at his or her discretion interviewing any person undergoing a community based sentence; and
- (j) inquiring into the treatment and conduct of persons undergoing a community based sentence; and
- (k) inquiring into all abuses or alleged abuses in a probation office or community work activity or in connection with it; and
- (l) exercising all or any of the powers and functions of a probation officer or parole officer or community justice supervisor; and
- (m) issuing instructions, guidelines or policies in relation to any or all of the activities undertaken by the Ministry and its staff; and
- (n) complying with the requirements of this or any other Act and regulations; and
- (o) ensuring compliance of all or any of the obligations imposed on the Ministry and staff members under this or any other Act; and
- (p) complying with a general direction given by the Minister.

**35. Delegation of Powers of CEO-**(1) The CEO may from time to time in writing either generally or specifically, delegate (unless the contrary intention applies) to any staff member as he or she thinks fit all or any of the powers exercisable by the CEO under this Act and may withdraw the delegation in writing at any time.

(2) By delegating a function or power, the CEO does not remove his or her own personal responsibility for such function or power which, in addition to the delegated person, remains with the CEO at all times.

(3) The CEO may exercise a power or function notwithstanding that he or she has delegated its exercise under this section.

**PART V**  
**PROBATION AND PAROLE SERVICE**

**36. Responsibility for Probation And Parole Services -**

The CEO is responsible for providing probation and parole services in accordance with the provisions of this or any other Act.

**37. Principal Probation Officer -** There shall be appointed to the Probation and Parole Service a Principal Probation Officer who will manage the day to day activities of the Probation and Parole Service.

**38. Powers and Functions of Principal Probation Officer**

- The powers and functions of the Principal Probation Officer include:

- (a) overseeing the administration of all community based sentences; and
- (b) managing and giving directions, training and overseeing the activities of probation and parole officers, and community justice supervisors; and
- (c) delegating in writing to a probation or parole officer all or any of his or her powers and functions without affecting his or her own responsibility which remains; and
- (d) exercising all the functions and powers of a probation officer, parole officer or a community justice supervisor as required.

**39. Probation Officers and Parole Officers -** There must be appointed as many probation and parole officers as are necessary for the effective and efficient administration of the Probation and Parole Service in Samoa.

**40. Functions and Powers of Probation and Parole Officers -** The functions of a probation or parole officer include:

- (a) supervision of persons placed under his or her supervision; and
- (b) ensuring that any condition placed on a person under a sentence of supervision or on parole are complied with; and
- (c) administering sentences of supervision and community work referred to the probation officer and to ensure that such sentences are carried out; and
- (d) arranging and supervising the activities of community justice supervisors; and
- (e) co-ordinating and arranging community involvement in the administration of any community based sentence or any particular release by the Prisons Parole Board as required and in accordance with any instructions issued by the Principal Probation Officer; and
- (f) arranging, providing and monitoring rehabilitative and reintegrative programmes or related services for offenders as required or when directed to do so by the Principal Probation Officer; and
- (g) providing reports and information that a Court, the Prisons Parole Board or the CEO is entitled to receive; and
- (h) complying with the direction of the Principal Probation Officer and performing any other function or duty conferred under this Act or any other Act.

**41. Delegation to Community Justice Supervisors-(1)**

A probation or parole officer may delegate to a community justice supervisor, on the written approval of the Principal Probation Officer, his or her powers to control, direct or supervise offenders subject to a sentence of supervision or community work or conditional release on parole.

(2) The delegation in subsection (1) must be in writing and must not convey to the community justice supervisor the power to arrest or any enforcement or penal power or authority conferred on a probation or parole officer under section 40(2) or under any other provision of this or any other Act.

**42. Community Justice Supervisors-**(1) Community justice supervisors are to be appointed by the Principal Probation Officer pursuant to a written instrument appointing a person as a community justice supervisor.

(2) Community justice supervisors must be persons of good standing in the community.

(3) A community justice supervisor will supervise the activities of persons on supervision, community work or parole in accordance with the direction of a probation or parole officer.

(4) A community justice supervisor must be allocated to an offender pursuant to a written agreement between a probation officer or parole officer and the community justice supervisor.

(5) The agreement will last for only such time as the offender is subject to the supervision or community work or parole order or until the agreement with the community justice supervisor is withdrawn by the Principal Probation Officer.

(6) Community justice supervisors may supervise more than 1 offender at any one time.

(7) A community justice supervisor will not by reason of holding office as a community justice supervisor be a member of the public service.

(8) Community justice supervisors must comply with the direction of the Principal Probation Officer, a probation officer or parole officer in the performance of any function or duty conferred under this Act or any other Act.

**PART VI**  
**MISCELLANEOUS**

**43. Protection from Liability** - The CEO, a staff member or any other authorised person under this Act, shall not in the exercise of a power or the discharge of a duty under this Act be personally liable for any civil or criminal proceedings for an act or omission done honestly and without negligence for this Act.

**44. Regulations**-(1) The Head of State acting on the advice of Cabinet may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), regulations may be made for the purposes of:

- (a) ensuring the good management of probation services and the community based justice system generally; and
- (b) prescribing the powers and functions of the CEO, probation officers, parole officers and community justice supervisors; and
- (c) providing for the management, care, treatment, wellbeing and integration of persons undergoing a community based sentence including that of supervision and community work; and
- (d) providing for any other matters contemplated by the Act.

**45. Transitional** – Every person appointed as a Principal Probation Officer (however called), probation officer or parole officer employed in the Ministry immediately before the commencement of this Act will, after the commencement of this Act continue in employment by the Ministry as if appointed under and subject to the provisions of this Act.

**46. Repeals and savings-**(1) The Offenders Probation Act 1971 is repealed.

(2) All prosecutions pending or sentences imposed and in force on the coming into force of this Act shall be completed and/or enforced under this Act in like manner as they would have been completed and/or enforced under the Offenders Probation Act 1971 as if this Act had not been passed.

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**The Community Justice Act 2008 is administered by the Ministry  
of Justice and Courts Administration**