

BELIZE:

ALTERNATIVE SENTENCING ACT, 2024

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No. 13 of 2024

I assent,

(H.E. DAME FROYLA TZALAM)
Governor-General

19th April 2024

AN ACT to repeal the Penal System Reform (Alternative Sentences) Act, Chapter 102:01 of the Substantive Laws of Belize, Revised Edition 2020; and the Probation of Offenders Act, Chapter 120 of the Substantive Laws of Belize, Revised Edition 2020; to make new provisions relating to alternative sentencing; and to provide for matters connected therewith or incidental thereto.

(Gazetted 27th April, 2024).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

PART I

Preliminary

1. This Act may be cited as the

Short title.

ALTERNATIVE SENTENCING ACT, 2024.

Interpretation.

2. In this Act–

“alternative sentence” means a sentence which consists of a community order;

“combination order” means a combination of more than one community order or of one or more community orders and a fine or custodial sentence given by a court to an offender as part of a sentence;

“common law partner” means a man or woman who cohabits with a person of the opposite sex continuously as husband and wife for a period of at least five years and is not legally married to that person or to any other person;

“community order” includes–

- (a) a community service order;
- (b) a curfew order;
- (c) an exclusion order;
- (d) a conditional sentence order;
- (e) an intermittent sentence order;
- (f) a suspended sentence supervision order;
- (g) a conditional discharge order;
- (h) a restitution order;
- (i) an order for the fine option programme;
- (j) a probation order; and
- (k) an order of a court directing a juvenile to be detained in a residential care facility;

“court” means the High Court or Magistrate Court;

“Department” means the Department of Community Rehabilitation established under section 3(1);

“Director” means the Director of Community Rehabilitation appointed under section 3(2);

“fine” includes a pecuniary penalty or other sum of money, but does not include restitution;

“juvenile” means a person under the age of eighteen years;

“Minister” means the Minister responsible for human development;

“money” includes bank notes, bank drafts, cheques and any other orders, warrants or requests for the payment of money;

“offence” means—

(a) an offence triable on indictment which, with the consent of the prosecution and the accused person, may be tried summarily; or

(b) an offence triable summarily and not otherwise;

“person” means a natural person;

“possession” includes not only having in one’s own personal possession, but knowingly having anything in the actual possession or custody of any other person, or having anything in any place, whether belonging to or occupied by oneself or not, for the use or benefit of oneself or any other person, and if there are two or more persons and any one of them with the knowledge and consent of the rest has anything in one’s custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them;

“probationer” means a person placed under supervision by a probation order; and

“property” includes money and all other property, real or personal, including things in action and other intangible property.

PART II

Establishment and Functions of the Community Rehabilitation Department, etc.

Establishment
of Department.

3.–(1) There shall be and is hereby established, under the Ministry responsible for human development, a Department to be known as the “Community Rehabilitation Department”.

(2) The Department shall be headed by a public officer to be known as the Director of Community Rehabilitation, who shall be appointed by the Public Services Commission in accordance with section 106 of the Belize Constitution.

CAP. 4.

(3) The public officer who is the Director immediately before the commencement of this Act shall–

- (a) continue to act as Director after the commencement of this Act; and
- (b) be deemed to have been appointed under subsection (2) of this section.

Functions
of the
Department.

4. The functions of the Department include–

- (a) in respect of community orders, compiling reports for the consideration of the courts at the pre-sentencing or post-sentencing stage showing–
 - (i) the results of an interview with the offender;

- (ii) where the offender is a juvenile, the results of an interview with the parents of the juvenile, and, where appropriate and reasonable, the results of an interview with any member of the extended family of the juvenile;
- (iii) the results of an interview with the victim of the criminal offence, where applicable and reasonable;
- (iv) such information as is applicable to the case, including—
 - (aa) the age, maturity, character, behaviour and attitude of the offender and the willingness of the offender to make amends and serve an alternative sentence;
 - (bb) any plan or proposal put forward by the offender to change the conduct of the offender or to participate in activities or undertake measures to improve the behavior of the offender;
 - (cc) the history of any previous finding of guilt under this Act or any other law, the history of community or other sentences given to the offender in respect of the finding, and the response of the offender to such previous sentence and to any alternative sentence undergone by the offender;
 - (dd) the availability and appropriateness of any community service and

facility and the willingness of the offender to make use of the service or facility;

- (ee) where the offender is a juvenile, the relationship between the juvenile and the parents of the juvenile and the degree of control and influence of the parents over the juvenile, and where appropriate and reasonably possible, the relationship between the juvenile and the extended family, school authorities, employer, church authorities and the local community of the juvenile;
 - (ff) the school attendance and performance record, or the employment record, of the offender;
 - (gg) the earning capacity of the offender, where the offender is a father in default of maintenance payments to the child; and
 - (hh) such other information as a court considers relevant to the case;
- (b) offering counselling to an offender and, in respect of a juvenile offender, the parents of the juvenile offender, on such terms and conditions, and for such period, as may be directed by a court;
 - (c) supervising any offender sentenced to do community service work;
 - (d) supervising any offender who is sentenced to any alternative sentence;

- (e) compiling statistics and undertaking research generally on any area of the criminal justice system, or on penal reform;
- (f) at the request of a court, supervising any offender at the post-sentencing stage;
- (g) compiling manuals on the operations of any community order in practice;
- (h) identifying and screening hospitals, schools, town, village and city councils and other institutions to determine their interest, suitability and ability to provide placement to offenders sentenced to do community service;
- (i) monitoring the institutions referred to in paragraph (h) to ensure that there is adequate supervision of, and full compliance with, the terms and conditions of community service orders;
- (j) reporting to the original court, within seventy two hours, breaches of any term and condition of a community service order by an offender;
- (k) informing an offender of any alternative sentence in ordinary language, reporting procedures and terms and conditions of the sentence of the offender where any condition is imposed as part of the sentence;
- (l) liaising with the Commission and any other body, governmental or otherwise, involved in the criminal justice system generally or in penal reform in particular;
- (m) managing residential care facilities established or operated by the government; and

- (n) doing all things that are necessary, incidental or conducive to the attainment of its functions under this Act.

Appointment
of community
rehabilitation
officers.
CAP. 4.

5.-(1) There shall be appointed by the Public Services Commission in accordance with section 106 of the Belize Constitution community rehabilitation officers as may be necessary for carrying out the provisions of this Act or any other law.

(2) Every community rehabilitation officer shall have all the powers and responsibilities of a social service practitioner and shall provide general social work services.

(3) The functions of a community rehabilitation officer include—

- (a) acting as primary case manager for juvenile offenders, juveniles who are at risk of coming in conflict with the law, juveniles who are institutionalised in a rehabilitation facility, and juveniles who are being reintegrated into society;
- (b) being on call and advocating due process with police on behalf of juvenile offenders ensuring that the rights of the juvenile offenders are not violated and the juvenile offenders understand the legal processes;
- (c) ensuring that an intake is conducted on all new juvenile and adult offenders, juveniles who are at risk of coming in conflict with the law, juveniles who are institutionalised in a rehabilitation facility, and juveniles who are being reintegrated into society;
- (d) preparing timely social inquiry and pre-sentencing reports as requested by a court;

- (e) making recommendations to the court that are in the best interest of an offender;
- (f) conducting field work, including home visits, school visits, medical visits, and visits to any other community agencies related to the case management role;
- (g) monitoring probation, community service, and other alternative sentence orders and bail conditions as stipulated by the court;
- (h) providing the court with periodic updates on offenders and report any breaches of conditions as necessary;
- (i) conducting interviews with all offenders who report to the Department for weekly supervision;
- (j) developing and implementing individualised service plans;
- (k) providing information about available services and arranging referrals to appropriate departmental or community resources;
- (l) providing family support services to offenders;
- (m) reporting all suspected cases of child abuse, neglect and exploitation;
- (n) coordinating or facilitating learning and recreational activities for offenders;
- (o) performing required documentation and maintenance of records in a designated platform;

- (p) submitting weekly itinerary, daily report of activities, and monthly statistical and program reports;
- (q) participating in in-service training, group supervision, case staffing, case conferences, and other related meetings as necessary;
- (r) representing the Department in the community, including at schools;
- (s) providing all required reports in a timely manner;
- (t) performing disaster relief duties as necessary; and
- (u) doing all things that are necessary, incidental or conducive to the attainment of its functions under this Act.

Establishment
of Probation
Unit.

6.–(1) There shall be and is hereby established, under the Department, a Unit to be known as the “Probation Unit”.

(2) The Probation Unit shall be responsible for the supervision of any adult offender who is under a probation order.

(3) The Probation Unit shall be comprised of such number of community rehabilitation officers as may be necessary for carrying out the provisions of this Act or any other law.

PART III

Alternative Sentences Generally

Court may
impose
alternative
sentences.

7. A court may, subject to this Act, in addition to, or as an alternative for, a penalty imposed by any other law, impose an alternative sentence provided by this Act for any offence.

8.-(1) A court shall, in imposing an alternative sentence under this Act upon any offender, take into account the following principles—

Factors for consideration by court.

- (a) the fundamental purpose of a penalty shall be to contribute, along with crime prevention initiatives, to respect for the law and the maintenance of a just, peaceful and safe society by imposing just sanctions that have one or more of the following objectives—
 - (i) to denounce unlawful conduct;
 - (ii) to deter an offender and any other person from committing an offence;
 - (iii) to separate offenders from society, where necessary;
 - (iv) to assist in rehabilitating offenders;
 - (v) to provide any reparation for harm done to a victim or to the community; and
 - (vi) to promote a sense of responsibility in an offender, and acknowledgment of the harm done to a victim and to the community;
- (b) a penalty shall be proportionate to the gravity of the offence and the degree of responsibility of the offender;
- (c) a sentence shall be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing, the following shall be considered to be aggravating circumstances—

- (i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor;
 - (ii) evidence that the offence was committed against a child, an elderly or otherwise vulnerable person;
 - (ii) evidence that the offence committed is a prevalent offence in the society;
 - (iv) evidence that the offence forms part of a series of offence committed by the offender;
 - (v) evidence that the offender has committed the same offence on more than one occasion;
 - (vi) evidence that the offender, in committing the offence, abused the spouse, common law partner, or child of the offender;
 - (vii) evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim;
 - (viii) evidence that the offence was committed for the benefit of, at the direction of, or in association with, a criminal gang; or
 - (ix) evidence that the offence was a terrorism offence;
- (d) a sentence shall be similar or proportionate to sentences imposed on similar offenders

for similar offences committed in similar circumstances;

- (e) where consecutive sentences are imposed, the combined sentence shall not be unduly long or harsh;
- (f) an offender shall not be deprived of liberty if less restrictive sanctions may be appropriate in the circumstances; and
- (g) all available sanctions, other than imprisonment, that are reasonable in the circumstances of each case shall be considered for all offenders.

(2) A court shall, in imposing any alternative sentence under this Act upon a juvenile offender, require the involvement and cooperation of the parent or guardian of the juvenile with the Department.

(3) In imposing any alternative sentence under this Act upon a juvenile offender, the court shall have regard to whether the juvenile offender will require monitoring, supervision, intervention, or any other assistance from the Department, as provided in a pre-sentencing report, beyond the length of any order made under this Act to complete rehabilitation and shall attach such monitoring, supervision, intervention, or other assistance from the Department, including aftercare programs with the Department, as a condition to the alternative sentence being imposed under this Act.

PART IV

Community Service Orders

9.-(1) Subject to this section and to regulations made under section 81, a court which convicts any person of an offence may make, in respect of that person, a community service

Community
service order.

order requiring that person, during the life of the order, to render service for the benefit of the community or any section of the community for such number of hours as shall be specified in the order.

(2) A community service order may be made against an offender—

- (a) in addition to any other sentence that the court imposes;
- (b) instead of any other sentence that the court may impose, unless such other sentence is mandatory; or
- (c) in lieu of imprisonment for a default in the payment of maintenance money to a spouse, common law partner, or child.

(3) A court shall not make a community service order against an offender—

- (a) unless the offender consents to the making of such an order;
- (b) unless the court is satisfied—
 - (i) after considering a report made by the Department under section 4(a) on the request of the court, and if the court thinks it necessary and desirable, after hearing the community rehabilitation officer who prepared the report, that the offender is a suitable person to perform work under such an order; and
 - (ii) that provision can adequately be made for the offender to perform work under the order and to be supervised;

- (c) in respect of an offence specified in section 45(10); or
- (d) unless the offence falls in the categories of offences specified in Schedule I.

Schedule I.

10. Before making a community service order, the court shall explain to the offender in ordinary language—

Court to explain meaning of order.

- (a) the purpose and effect of the order, and in particular the conditions and requirements that may be specified in it under section 11 and the requirements of section 12(1)(b);
- (b) the consequences which may follow under section 15 if the offender fails to comply with any of those conditions and requirements under section 16 of the Act if the offender commits an offence during the life of the community service order; and
- (c) that the court has, under section 17, the power to review the order on application of the offender or the Director.

11.—(1) The community service order shall be performed for a period not exceeding twelve months, and in any one week during the life of the order, the offender shall not work—

Duration and requirements of community service order.

- (a) for more than eight hours a day; or
- (b) on a public or bank holiday.

(2) The community service order shall contain any requirement and condition to be complied with by the offender during the life of the order as the court may consider necessary for the supervision of the offender.

Notice of order and supervision of offender.

12.-(1) The court which makes a community service order shall—

- (a) immediately give a copy of the order to the offender and send a copy to the Director; and
- (b) specify in the order a place at which, and a time when and within which, the offender shall be present for the purpose of enabling the administration of the order to commence.

(2) The Director shall ensure that a copy of the order is supplied to the supervising community rehabilitation officer of the offender.

Obligations of offenders under community service order.

13.-(1) Where a community service order is in force against an offender, the offender shall—

- (a) perform, for the number of hours specified in the order, such work and at such times as may be directed by the supervising community rehabilitation officer;
- (b) perform the work referred to in paragraph (a) of this sub-section in a satisfactory manner;
- (c) comply with any conditions and requirements specified in section 11;
- (d) comply with any reasonable direction of the supervising community rehabilitation officer, including any direction designed to enable that officer to provide rehabilitative counselling and guidance; and
- (e) immediately notify the supervising community rehabilitation officer of any change of residence.

(2) In making a community service order, a court shall ensure that the offender is required to work within the judicial district that the offender resides, preferably within the community where the offender resides.

(3) The directions given by a supervising community rehabilitation officer under sub-section (1) shall, so far as practicable, take account of the religious beliefs of the offender and the times, if any, when the offender normally engages in gainful employment or attends school or other educational instruction.

(4) The type of work that an offender may be required to perform under a community service order shall be that specified in Schedule II.

Schedule II.

(5) The Minister may, by order published in the *Gazette*, amend the type of work specified in Schedule II.

Schedule II.

14. A community service order shall remain in force against an offender until—

Duration of community service order.

- (a) the offender has performed the work required under it for the number of hours specified in it;
- (b) the expiration of twelve months commencing from the date of the making of the order;
- (c) where the order is extended under section 17(1)(a)(i), the expiration of the order as so extended; or
- (d) the order is revoked under section 15, 16 or 17,

whichever occurs first.

15.—(1) An offender who fails to comply with section 13(1), whether by reason of a failure to satisfactorily comply with

Breach of section 13.

any condition or requirement of the community service order or otherwise, may be dealt with in accordance with this section.

(2) If at any time while a community service order is in force in respect of an offender it appears on information to a court specified in section 43(a) or (b) that the offender has failed to comply with section 13(1), that court may issue a summons requiring the offender to appear before the court at the time specified in the order, or may, if the information is in writing and on oath, issue a warrant for arrest of the offender.

(3) If it is proved to the satisfaction of a court specified in section 43(a) or (b) before whom an offender appears or is brought under this section that the offender has failed without reasonable excuse to comply with section 13(1), that court may, without prejudice to the continuance of the order, impose on the offender a fine not exceeding two thousand dollars, or may—

- (a) if the community service order was made by a court specified in section 43(a) or (b), revoke the order and deal with the offender for the offence in respect of which the order was made in any manner in which the offender could have been dealt with for that offence by the court which made the order if the order had not been made; or
- (b) if the order was made by a court specified in section 43(c), (d) or (e), commit the offender to custody or release the offender on bail, with or without sureties, until such time as the offender can be brought or made to appear before such court.

(4) Where a court specified in section 43(a) or (b) deals with the case of an offender under sub-section (3)(b)—

- (a) that court shall send to the court referred to in section 43(c), (d) or (e) a certificate signed by the magistrate certifying that the offender has failed to comply with section 13(1) in the manner specified in the certificate, together with such other particulars of the case as are in the opinion of the magistrate necessary, and a certificate purporting to be so signed shall upon its production be admissible before a court referred to in section 43(c), (d) or (e) as evidence of the failure to comply without further proof;
- (b) where the offender is brought or appears before the court referred to in section 43(c), (d) or (e) and that court is satisfied that the offender has failed to comply with section 13(1), that court may either—
- (i) without prejudice to the continuance of the order, impose on the offender a fine not exceeding two thousand dollars; or
- (ii) revoke the order and deal with the offender for the offence in respect of which the order was made in any manner in which the offender could have been dealt with for that offence by the court which made the order if the order had not been made.

(5) A fine imposed under this section in respect of a failure to comply with section 13(1) shall be deemed for the purposes of any law to be a sum adjudged to be paid by a conviction.

16.—(1) An offender who commits an offence while a community service order is in force in respect of the offender (in this section referred to as “a subsequent offence”) may

Commission
of further
offence.

be dealt with in respect of the subsequent offence and of any offence for which the community service order was made (in this section referred to as “all original offence”) in accordance with this section.

(2) An offender who is convicted and sentenced by a court in respect of a subsequent offence may, in addition, be sentenced by that court, if it considers it expedient to do so, for an original offence in any manner in which the court that made the community service order could have sentenced the offender if it had just convicted the offender of the original offence.

(3) Notwithstanding sub-section (2)–

- (a) a court specified in section 43(a) or (b) shall not, by virtue of this sub-section, sentence an offender for the original offence if the community service order was made by a court specified in section 43(c), (d) or (e); and
- (b) the Criminal Division of the High Court shall not sentence an offender for the original offence, by virtue of this sub-section, if the community service order was made by a court referred to in section 43(d) or (e).

(4) Where a court sentences an offender under sub-section (2), it may revoke, or vary the terms of, any community service order which is in force in respect of the offender, or make no order in respect of it.

(5) Where–

- (a) a court specified in section 43(a) or (b) convicts an offender of a subsequent offence that was committed while a community service order made by a court

referred to in section 43(c), (d) or (e) was in force in respect of the offender; or

- (b) the Criminal Division of the High Court convicts an offender of a subsequent offence that was committed while a community service order made by a court specified to section 43(d) or (e) was in force in respect of the offender,

the court that convicts the offender may, if it thinks fit, without proceeding to sentence, order that the offender appear or be brought before the court by which the community service order was made to be dealt with under sub-section (8), and for this purpose may commit the offender to custody or release the offender on bail, with or without sureties, and a court that so orders shall send to the court referred to in section 43(c), (d) or (e) dealing with the matter, as the case may be, a copy of the record of the conviction for the subsequent offence.

(6) If it appears to a—

- (a) judge of a court referred to in section 43(c), (d) or (e) by which a community service order was made; or
- (b) magistrate of a court referred to in section 43(a) or (b) by which a community service order was made,

that an offender has been convicted by any court of a subsequent offence, and has been dealt with for that offence but not sentenced under this section for an original offence, the judge or magistrate, as the case may be, may issue a summons requiring the offender to appear before the court that made the community service order, at the time specified in the summons, or may issue a warrant for the arrest of the offender requiring the offender to be brought before that court and dealt with under sub-section (8).

(7) Notwithstanding sub-section (6), a court referred to in section 43(a) or (b) shall not issue a warrant under sub-section (6) except on information in writing and on oath.

(8) If a warrant issued under this section directs an offender to be brought before a court referred to in section 43(c), (d) or (e), and the offender cannot be immediately brought before that court, the warrant shall have effect as if it directed the offender to be brought before a court referred to in section 43(a) or (b), as the case may be, and such court shall commit the offender to custody or release the offender on bail, with or without sureties, until the offender can be brought before the court referred to in section 43(c), (d) or (e) dealing with the case of the offender.

(9) Where it is proved to the satisfaction of the court before which an offender appears or is brought under sub-section (4), (5) or (6) that the offender has been convicted of a subsequent offence, the court—

- (a) may sentence the offender for the original offence in any manner in which the court that made the community service order could have sentenced the offender if it had just convicted the offender of the original offence, and may revoke, or vary the terms of, any community service order that is in force in respect of the offender, or may make no order in respect of it; and
- (b) where the offender appears or is brought before the court under sub-section (4) may also sentence the offender for the subsequent offence in any manner in which the court that convicted the offender of the subsequent offence could have sentenced the offender.

17.-(1) Where a community service order is in force in respect of an offender, a court specified in section 43(a) or (b), on application by the offender or by the Director, may—

- (a) upon any of the grounds specified in sub-section (2), if the community service order was made by a court specified in section 43(a) or (b)—
 - (i) extend, in relation to the order, the period, of twelve months specified in section 11(1); or
 - (ii) revoke the order and deal with the offender for the offence in respect of which the order was made in any manner in which the offender could have been dealt with for that offence by the court which made the order if the order had not been made; or
- (b) if the order was made by a court specified to in section 43(c), (d) or (e), commit the offender to custody or release the offender on bail, with or without sureties, until the offender can be brought or made to appear before the court which made the order, and if the court specified in section 43(a) or (b) does so, it shall send to that court such particulars of the case as in its opinion are necessary.

(2) The grounds upon which a court may vary or revoke a community service order under this section are that—

- (a) there has been a change of circumstances since the order was imposed that would justify the variation or revocation of the order;
- (b) it is no longer necessary in the interest of the community or the offender that the order should continue;

- (c) no, or no more suitable, service is available to be performed by the offender for the purpose of the order; or
- (d) because of incapacity or for any other reason considered sufficient by the court, it will be impossible for the offender to perform the service before the order expires, or that it would be unreasonable to require the offender to do so.

(3) Where in pursuance of sub-section (1)(b), the offender is brought or appears before a court referred to in section 43(c), (d) or (e), that court may, upon the grounds specified in sub-section (2), deal with the offender in any manner specified in sub-section (1)(a).

(4) Where a court specified in section 49(a) or (b) proposes to exercise its powers otherwise than on the application of the offender, it shall summon the offender to appear before the court and, if the offender does not appear in answer to the summons, may issue a warrant for the arrest of the offender.

Court to give notice of revocation or variation of community service order.

18. Where a court revokes, or extends, or otherwise varies, a community service order, it shall give to the offender, and send to the Director and the supervising community rehabilitation officer of the offender, a copy of its order revoking, extending or otherwise varying the community service order.

National Committee on Community Service.

19.—(1) There shall be a committee to be known as the National Committee on Community Service.

(2) The National Committee shall consist of—

- (a) a judge or a former judge of the High Court nominated by the Chief Justice;

- (b)* the Director of the Family Court;
- (c)* a Crown Counsel nominated by the Director of Public Prosecutions;
- (d)* the Superintendent of Prisons or a representative;
- (e)* the Commissioner of Police or a representative;
- (f)* the Director;
- (g)* a representative of the Ministry responsible for local government;
- (h)* a representative of the Ministry responsible for health;
- (i)* a representative of the Ministry responsible for education;
- (j)* a representative of the Ministry responsible for youth;
- (k)* a magistrate nominated by the Chief Magistrate.
- (l)* the Executive Director of the National Commission for Families and Children or a representative;
- (m)* a representative nominated by the private sector;
- (n)* a representative of a tertiary level institution;
- (o)* a representative nominated by non-governmental organisations;
- (p)* a representative from the religious community;
and

(q) a mental health professional.

(3) The members of the National Committee shall elect one of the members of the Committee to be Chairperson, and any other member of the Committee to be the Deputy Chairperson.

(4) The Chairperson and Deputy Chairperson shall hold office for one year and shall be eligible for re-election.

(5) The Director shall be the Secretary of the Committee.

(6) Fifty percent of the members of the Committee shall be required to constitute a quorum.

**Functions of
the National
Committee.**

20.—(1) The functions of the National Committee include—

- (a) advising the Department in the areas of juvenile justice and rehabilitation;
- (b) advocating to the public in the areas of juvenile justice and alternative sentences;
- (c) supporting training for stakeholders in respect of juvenile rehabilitation, community service, and other alternative sentences;
- (d) providing technical assistance to the Department in the area of juvenile justice;
- (e) recruiting community service providers to offer opportunities for juveniles to serve alternative sentences;
- (f) monitoring the operation of community service orders in all their aspects and liaising and communicating with the Department on areas or issues requiring improvement;

- (g) proposing measures for the effective operation of community service orders to the Department;
- (h) receiving and considering extra-judicial complaints by offenders on the nature of community service work; and
- (i) undertaking any other function that may be required of it by or under this Act or any other law.

(2) The National Committee shall have District Committees.

PART V

Curfew Orders

21.—(1) Where a person is convicted of an offence, the court may, in addition to or instead of any other penalty, make a curfew order requiring that person to remain, for periods specified in the order, at a place so specified.

Curfew order.

(2) A curfew order shall be for a period that the court considers just and may specify different places or different periods for different days.

(3) The requirements in a curfew order shall, as far as practicable, be such as to avoid—

- (a) any conflict with the religious beliefs of the offender or with the requirements of any other community service order to which the offender may be subject; and
- (b) any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment.

(4) A curfew order shall include a provision for making a community rehabilitation officer, or any other person designated by the court, responsible for monitoring the whereabouts of the offender during the curfew periods specified in the order.

(5) Before making a curfew order, the court shall obtain and consider information about the place proposed to be specified in the order, including information as to the views of any person who is likely to be affected by the enforced presence of the offender.

(6) Before making a curfew order, the court shall explain to the offender in ordinary language—

- (a) the effect of the order, including any additional requirements proposed to be included in the order in accordance with section 22;
- (b) the consequences which may follow under section 23 if the offender fails to comply with any of the requirements of the order; and
- (c) that the court has power under section 24 or 25 to review the order on the application either of the offender or of the community rehabilitation officer.

(7) The court by which a curfew order is made shall give a copy of the order to the offender and to the community rehabilitation officer.

Electronic
monitoring of
curfew order.

22.—(1) Subject to sub-section (2), a curfew order may, in addition, include requirements for securing the electronic monitoring of the whereabouts of the offender during the curfew periods specified in the order.

(2) A court shall not make a curfew order which includes the requirements specified in sub-section (1) unless the court—

- (a) has been notified by the Department that such arrangements are available in the area in which the place proposed to be specified in the order is situated; and
- (b) is satisfied that the necessary provision can be made under those arrangements.

(3) Electronic monitoring arrangements made by the Department under this section may include the Ministry entering into contracts with any other person, whether public or private, for the electronic monitoring of the whereabouts of an offender.

(4) Subject to sub-section (6), a person who is subject to electronic monitoring may be required under the electronic monitoring arrangements to pay for the cost of such monitoring where the court finds that that person has the ability to pay the costs.

(5) The costs for electronic monitoring shall be a debt owing to the Crown and may be recovered from the person in a court of civil jurisdiction.

(6) In determining whether a person has the ability to pay for the cost of electronic monitoring, the court shall consider any amount that the person has been ordered to pay in fines, restitution or any other costs, and shall give priority to the payment of those items before requiring that the person to pay for the electronic monitoring.

(7) A person who damages, destroys, or tampers with any device used for, or to facilitate, the electronic monitoring of that person or any other person commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or imprisonment for a term not exceeding one year, or to both.

(8) Any document or information in relation to an offender provided under electronic monitoring arrangements of the offender shall prima facie be admissible in any court.

Breach of
curfew order.

23.—(1) If at any time while a curfew order is in force in respect of any person, it appears on information to the court that that person has failed to comply with any of the requirements of section 21 or 22, the court may issue a summons directing that person to appear before it, or may, if the information is in writing and on oath, issue a warrant for that person to be arrested and brought before it.

(2) If it is proved to the satisfaction of the court that the offender has failed without reasonable excuse to comply with any of the requirements of section 21 or 22, the court may, without prejudice to the continuance of the order—

- (a) impose on the offender a fine of two thousand dollars;
- (b) impose, where no fine or imprisonment was imposed at the time of the original conviction, any fine or imprisonment or both, as could have been imposed at that time; or
- (c) revoke the order and impose any other sentence, either by way of fine or imprisonment, or both, which may have already been imposed at the time of the conviction in substitution of, or in addition, to a further—
 - (i) fine;
 - (ii) term of imprisonment;
 - (iii) fine and term of imprisonment; or

- (d) where the offender is a juvenile, impose any other alternative sentence it thinks fit.

(3) Notwithstanding sub-section (2)(c), the fine or further term of imprisonment when added to any fine or term of imprisonment imposed at the time of the original conviction shall not exceed the maximum fine or the maximum term of imprisonment laid down in the law with respect to the contravention of which the offender was originally sentenced.

24.–(1) Where the court is satisfied that an offender proposes to change, or has changed, residence while a curfew order is in force in respect of the offender, the court may, on the application of a community rehabilitation officer, amend the order by substituting another area for the area specified in the order.

Amendment
by reason
of change of
residence.

(2) Notwithstanding sub-section (1), the court shall not amend a curfew order which contains requirements which, in the opinion of the court, cannot be complied with unless the offender continues to reside in the area concerned unless, in accordance with section 25, it either–

- (a) cancels those requirements; or
- (b) substitutes for those requirements other requirements which can be complied with if the offender ceases to reside in that area.

25.–(1) The court may, on the application of the offender or the community rehabilitation officer, amend, by order, a curfew order by cancelling any of the requirements of the curfew order.

Amendment of
requirements
of curfew
order.

(2) A court shall not, under sub-section (1), amend a curfew order by extending the curfew periods beyond the end of six months from the date of the original order.

Rules for
curfew order.

- 26.**—(1) The Chief Justice may make rules for regulating—
- (a) the monitoring of the whereabouts of any person who is subject to a curfew order, including electronic monitoring in a case where arrangements for monitoring is available; and
 - (b) without prejudice to the generality of paragraph (a), the functions of the community rehabilitation officer of any person who is subject to a curfew order.
- (2) The Chief Justice may by order direct that—
- (a) section 21(2) shall have effect with the substitution, for any period there specified, of such period as may be specified in the order; or
 - (b) section 21(3) shall have effect with any additional restriction as may be so specified.

PART VI

Exclusion Orders

Exclusion
order.

27.—(1) Where a person is convicted of an offence, the court before which the person is convicted may make an exclusion order prohibiting that person from entering a place specified in the order for a period so specified not exceeding two years.

- (2) An exclusion order may—
- (a) provide for the prohibition to operate only during the periods specified in the order; and
 - (b) specify different places for different periods or days.

(3) The requirements in an exclusion order shall, as far as practicable, be such as to avoid—

- (a) any conflict with the religious beliefs of the offender or with the requirements of any other order to which the offender may be subject; and
- (b) any interference with the times, if any, at which the offender normally works or attends school or any other educational establishment.

(4) An exclusion order shall include a provision for making a community rehabilitation officer responsible for monitoring the whereabouts of an offender during the period when the prohibition operates.

(5) An exclusion order shall specify the area in which the offender resides or will reside.

(6) A court shall not make an exclusion order unless the court has been notified by the Department that arrangements for monitoring the whereabouts of the offender are available in the area in which the place proposed to be specified in the order is situated and the notice has not been withdrawn.

(7) Before making an exclusion order in respect of a juvenile offender, the court shall obtain and consider information about the family circumstances of the juvenile offender and the likely effect of such an order on those circumstances.

(8) The court, before making an exclusion order, shall explain to the offender in ordinary language—

- (a) the effect of the order;
- (b) the consequences which may follow under section 28 if the offender fails to comply with any of the requirements of the order; and

- (c) that the court has power under section 29 to review the order on the application of the offender, the community rehabilitation officer or any affected person.

(9) The court by which an exclusion order is made shall—

- (a) cause a copy of the order to be given to the offender and the community rehabilitation officer; and
- (b) give to any affected person any information relating to the order which the court considers it appropriate for that person to have.

(10) In this section—

- (a) “place” includes an area; and
- (b) a person is an affected person in relation to an exclusion order if a prohibition is included in the order for the purpose of protecting that person from being approached by the offender.

**Breach of
exclusion
order.**

28.—(1) If at any time while an exclusion order is in force in respect of any person it appears on information to the court that made the order that that person has failed to comply with any of the requirements of section 27, the court may issue a summons directing that person to appear before it, or may, if the information is in writing and on oath, issue a warrant for that person to be arrested and brought before it.

(2) If it is proved to the satisfaction of the court that the offender has failed without reasonable excuse to comply with any of the requirements of section 27, the court may, without prejudice to the continuance of the order—

- (a) impose on the offender a fine of two thousand dollars;

- (b) revoke the order and impose, where no fine or imprisonment was imposed at the time of the original conviction, such fine or imprisonment or both, as could have been imposed at that time; or
- (c) revoke the order and impose in substitution of, or in addition to, any other sentence either by way of fine or imprisonment, or both, which may have already been imposed at the time of the conviction—
 - (i) a further fine;
 - (ii) a further term of imprisonment; or
 - (iii) a further fine and a further term of imprisonment.

(3) Notwithstanding sub-section (2)(c), the fine or further term of imprisonment when added to any fine or term of imprisonment imposed at the time of the original conviction shall not exceed the maximum fine or the maximum term of imprisonment laid down in the law in respect of the contravention of which the offender was originally sentenced.

29. Where an exclusion order is in force in respect of an offender and, on application of the offender or that of the community rehabilitation officer, it appears to the court that made the order that, having regard to circumstances which have arisen since the order was made, it would be in the interests of justice to do so, the court may extend the order for a further period of twelve months.

Amendment
of exclusion
order.

30.—(1) The Chief Justice may make rules for regulating—

Rules for
exclusion
order.

- (a) the monitoring of the whereabouts of a person who is subject to an exclusion order; and

- (b) without prejudice to the generality of paragraph (a), the functions of a community rehabilitation officer in relation to an offender who is subject to an exclusion order.

(2) The Chief Justice may by order direct that section 27(2) shall have effect with such additional restrictions as may be specified in the order.

PART VII

Conditional Sentence Orders

Appointment of supervisor.

31. Where the court orders a conditional sentence, the court shall appoint a supervisor who shall be responsible for supervising the behaviour of the offender.

Imposing of conditional sentence.

32. Where a person is convicted of an offence, except an offence that is punishable by a minimum term of imprisonment, and the court—

- (a) imposes a sentence of imprisonment of less than two years; and
- (b) is satisfied that serving the sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purpose and principles of sentencing set out in section 8,

the court may, for the purpose of supervising the behaviour of the offender in the community, order that the offender serve the sentence or any part of that sentence in the community, subject to compliance, by the offender, with the conditions of a conditional sentence order made under section 33.

Compulsory conditions of conditional sentence order.

33.—(1) The court shall prescribe, as conditions of a conditional sentence order, that an offender do all of the following—

- (a) keep the peace and be of good behaviour;
- (b) appear before the court when required to do so by the court;
- (c) report to a supervisor—
 - (i) within two working days, or such longer period as the court directs, after the making of the conditional sentence order; and
 - (ii) thereafter, when required by the court and in the manner directed by the court;
- (d) remain within the country unless written permission to go outside the country is obtained from a court or the supervisor;
- (e) notify the court or the supervisor in advance of any change of name or address; and
- (f) promptly notify the court or the supervisor of any change of employment or occupation.

(2) The court may prescribe, as additional conditions of a conditional sentence order, that the offender do one or more of the following—

- (a) abstain from the consumption of—
 - (i) alcohol or other intoxicating substances; and
 - (ii) drugs except in accordance with a medical prescription;
- (b) abstain from owning, possessing or carrying a weapon;

- (c) provide for the support or care of dependants;
 - (d) perform up to 240 hours of community service for a period not exceeding eighteen months;
 - (e) attend an approved treatment programme; or
 - (f) comply with any other reasonable condition that the court considers desirable for securing the good conduct of the offender and for preventing a repetition by the offender of the same offence or the commission of other offences.
- (3) A court that makes an order under this section shall—
- (a) cause to be given to the offender—
 - (i) a copy of the order; and
 - (ii) an explanation of the substance of this section; and
 - (b) take reasonable measures to ensure that the offender understands the order and the explanation given to the offender under paragraph (a).

Procedure
on breach of
condition.

34.—(1) If at any time while a conditional sentence order is in force it appears on information to the court that made the order that the offender has failed to comply with any of the requirements of section 33, including any failure to satisfactorily perform any work which that person has been instructed to do, or that that person has been convicted of another offence, it may issue a summons directing that person to appear before it, or may, if the information is in writing and on oath, issue a warrant for that person to be arrested and brought before it.

(2) An allegation of a breach of condition may be heard by any court having jurisdiction to hear that allegation, and any allegation of a breach shall be heard—

- (a) where a warrant was issued, within thirty days after the arrest of the offender or as soon thereafter as is practicable; or
- (b) where a summons was issued, within thirty days after the issue of the summons or as soon thereafter as is practicable.

(3) An allegation of a breach of condition shall be supported by a written report of the supervisor, which shall include, where appropriate, signed statements of any witness.

(4) The offender may, with leave of the court, require the attendance for cross-examination of the supervisor or of any witness whose signed statement is included in the report.

(5) Where the offender has been convicted of another offence or the court is satisfied that the offender has, without reasonable excuse, breached a condition of the conditional sentence order, the court may—

- (a) take no action;
- (b) change the conditions of the order under section 33;
- (c) suspend the conditional sentence order and direct that the—
 - (i) offender serves a portion of the unexpired sentence in prison; and
 - (ii) conditional sentence order resume on the release of the offender from

imprisonment, either with or without changes to the conditions under section 33; or

- (d) terminate the conditional sentence order and direct that the offender be committed to prison until the expiration of the sentence.

Person
imprisoned for
new offence.

35.—(1) Where an offender who is subject to a conditional sentence is imprisoned as a result of a sentence imposed for another offence, the running of the conditional sentence shall be suspended during the period of imprisonment for that other offence.

(2) Where an order is made under section 34(5)(c) or (d) to commit an offender to custody, the custodial period ordered shall, unless the court considers that it would not be in the interests of justice, be served consecutively to any other period of imprisonment that the offender is serving when that order is made.

(3) Where an offender is serving both a custodial period referred to in sub-section (2) and any other period of imprisonment, the periods shall be deemed to constitute one sentence of imprisonment.

(4) The running of any period of the conditional sentence that is to be served in the community shall resume upon the release of the offender from prison on statutory release, on earned remission, or at the expiration of the sentence.

PART VIII

Intermittent Sentence Orders

Intermittent
sentence order.

36.—(1) Where the court imposes a sentence of imprisonment of one hundred and eighty days or less on a person convicted of an offence, whether in default of payment of a fine or otherwise, the court may, having regard to the—

- (a) age and character of the offender;
- (b) nature of the offence and the circumstances surrounding its commission; and
- (c) availability of appropriate accommodation to ensure compliance with the sentence,

order that the sentence be served intermittently at such times as are specified in the order, and that the offender complies with the conditions prescribed in a probation order when not in confinement during the period that the sentence is being served and, if the court so orders, on release from prison after completing the intermittent sentence.

(2) An offender who is ordered to serve a sentence of imprisonment intermittently may, on giving notice to the prosecutor, apply to the court that imposed the sentence to allow the sentence to be served on consecutive days.

(3) Where a court imposes a sentence of imprisonment on a person who is subject to an intermittent sentence in respect of another offence, the unexpired portion of the intermittent sentence shall be served on consecutive days unless the court otherwise orders.

PART IX

Suspended Sentence and Suspended Sentence Supervision Orders

37.—(1) A court which passes a sentence of imprisonment on an offender for a term of not more than three years for an offence may suspend the sentence by ordering that the sentence shall not take effect unless—

Suspended sentence.

- (a) during a period specified in the order, being not less than twelve months or more than three years from the date of the order (in this Act referred

to as “the operational period”), the offender commits in Belize another offence punishable with imprisonment for a period exceeding six months (hereafter in this section and sections 38 and 39, referred to as a “subsequent offence”); and

- (b) thereafter, a court having power to do so orders under section 38 that the original sentence shall take effect.

(2) A sentence for an offence specified in section 45(10) shall not be suspended and notwithstanding any Act or law to the contrary, a criminal court shall only suspend the sentences of offenders who have committed the offences specified in Schedule I.

Schedule I.

(3) A court shall not deal with an offender by means of a suspended sentence unless the case appears to the court to be one in respect of which a sentence of imprisonment would have been appropriate in the absence of power to suspend such a sentence by an order under sub-section (1).

(4) Where a court passes a suspended sentence on an offender in respect of an offence and also a term of imprisonment in respect of another offence, the court shall direct that the suspended sentence be concurrent with the term of imprisonment.

(5) On passing a suspended sentence, the court shall explain to the offender in ordinary language the liability of the offender under section 38 if the offender commits a subsequent offence during the operational period.

Subsequent
offence during
operational
period.

38.—(1) Subject to sub-section (3), where an offender is convicted of a subsequent offence committed during the operational period of a suspended sentence, the court before which the offender is convicted of the subsequent offence may—

- (a) order that the suspended sentence shall take effect with the original term unaltered; or
- (b) substitute a lesser term of imprisonment for the original term.

(2) Where a court deals with an offender in respect of a suspended sentence passed by another court, the first court shall notify the latter court of the manner in which the offender was dealt with.

(3) Where a court referred to in section 43(a) or (b) convicts an offender of an offence in respect of which a suspended sentence passed by a court referred to in section 43(c), (d) or (e) is in operation, the first court shall forward to the Registrar of the latter court a certificate signed by the Clerk of Court of the first court and under the seal of that court certifying that the offender has been convicted of a subsequent offence, together with such other particulars of the case as the first court may consider necessary, whereupon a judge of the latter court before whom the offender is brought may, without prejudice to the order of the first court with respect to the subsequent offence, order that the suspended sentence shall take effect either with the original term unaltered or with the substitution of a lesser term for the original term.

39.—(1) Where a person has been convicted before a court of a subsequent offence committed during the operational period of a suspended sentence but that court was not at the time aware of the suspended sentence or of some feature affecting the operation of that sentence, any court may, on receipt of information relating to that suspended sentence or that feature and the conviction of the offender for the subsequent offence, issue a summons requiring that person to appear at the place and time specified in the summons, or may issue a warrant for the arrest of that person.

Discovery
of further
offence.

(2) A summons or warrant issued under sub-section (1) shall direct that the person appears or be brought before the court before which the person was convicted in respect of the subsequent offence and, upon that person so appearing or being so brought, the court shall proceed to exercise its powers under section 38 in respect of the suspended sentence.

Saving of existing powers.

40. Subject to section 37(2), the provisions of sections 37 to 39 are without prejudice to any rule of law for the time being allowing a criminal court to suspend a sentence.

Suspended sentence supervision order.

41.—(1) Where a court passes on an offender a suspended sentence for a term of more than six months for a single offence, the court may make a suspended sentence supervision order placing the offender under the supervision of a supervising officer for a period which is specified in the order, being a period which does not exceed the operational period of the suspended sentence.

(2) A supervising officer shall be a community rehabilitation officer appointed for or assigned to the area for the time being specified in the order.

(3) A suspended sentence supervision order shall specify the area in which the offender resides or will reside.

(4) An offender with respect to whom a suspended sentence supervision order is in force shall keep in touch with the supervising officer in accordance with any instructions the supervising officer may from time to time give the offender.

(5) An offender shall notify a supervising officer of any change of residence.

(6) On making a suspended sentence supervision order, the court shall explain its effect to the offender in ordinary language.

(7) The court by which a suspended sentence supervision order is made shall as soon as reasonably practicable cause copies of the order to be given to a community rehabilitation officer assigned to the court, and the community rehabilitation officer shall give a copy of the order to the offender and to the supervising officer.

(8) A suspended supervision order shall cease to have effect if before the end of the period specified in it—

- (a) the court orders that a suspended sentence passed in the proceedings in which the order was made shall have effect; or
- (b) the order is discharged or replaced under the subsequent provision of this section.

(9) A suspended sentence supervision order may be discharged, on the application of the supervising officer or the offender, by the court that made the order.

(10) Where a court deals with an offender in respect of a suspended sentence by varying the operational period of the sentence or by making no order with respect to the sentence, the court may make a suspended sentence supervision order in respect of the offender—

- (a) in place of any such order made when the suspended sentence was passed;
- (b) if the court which passed the sentence could have made such an order but did not do so; or
- (c) if that court could not then have made such an order but would have had power to do so if sub-section (1) had then had effect as it has effect at the time when the offender is dealt with.

Breach of requirement of suspended sentence supervision order.

42.—(1) If at any time while a suspended sentence supervision order is in force in respect of an offender it appears on information to a court that the offender has failed to comply with any of the requirements of section 41(4) and (5), the court may—

- (a) issue a summons requiring the offender to appear at the place and time specified in it; or
- (b) if the information is in writing and on oath, issue a warrant for the arrest of the offender.

(2) If it is proved to the satisfaction of the court before which an offender appears or is brought under this section that the offender has failed without reasonable cause to comply with any of the requirements of section 41(4) and (5), the court may, without prejudice to the continuance of the order, impose on the offender a fine of one thousand dollars.

(3) An allegation of a breach of a requirement of section 41(4) and (5) shall be supported by a written report of the supervisor, which report shall include, where appropriate, signed statements of witnesses.

(4) A fine imposed under sub-section (2) shall be deemed, for the purposes of any law, to be a sum adjudged to be paid by a conviction.

PART X

Powers of Criminal Courts Discharge and Binding Over

Meaning of “court” in this Part.

43. In this Part, “court” means—

- (a) the Family Court;
- (b) the Magistrate Court;
- (c) the Criminal Division of the High Court;

- (d) the Court of Appeal exercising its appellate jurisdiction in criminal causes; and
- (e) an appellate court of record which sits in its appellate jurisdiction to determine criminal appeals from the Court of Appeal.

44.-(1) Where a court before which a person is convicted of an offence is of the opinion that, having regard to the nature of the offence, the character of the offender, and other relevant circumstances, it is inexpedient to inflict a custodial sentence, the court may make an order discharging the offender.

Discharging
and binding
over.

(2) An order made under sub-section (1) may discharge the offender absolutely or, if the court thinks fit, may discharge the offender subject to the condition that the offender does not commit an offence during a period specified in the order not exceeding three years from the date of the making of the order, and in this Act an order of the latter kind is called an “order for conditional discharge” and the period specified in an order for conditional discharge is called “the period of conditional discharge”.

(3) Before making an order for conditional discharge, the court—

- (a) may request the Department to prepare a report referred to in section 4(a) in respect of the offender; and
- (b) shall explain to the offender in ordinary language that if the offender commits another offence during the period of conditional discharge, the offender shall be liable to be sentenced for the original offence.

(4) Where, under the provisions of this section and section 45, a person conditionally discharged under this section is

sentenced for the offence in respect of which the order for conditional discharge was made, the order for conditional discharge shall, from the date of the passing of sentence, stand discharged and cease to have effect.

Commission of further offence by person conditionally discharged.

45.—(1) If it appears to a court that a person, in respect of who an order for conditional discharge has been made, has been convicted in Belize of an offence committed during the period of conditional discharge, the court may issue a summons on information, or a warrant on information in writing and on oath, requiring that person to appear at the time and place specified in the summons or the warrant for the arrest of that person.

(2) A summons or warrant issued under sub-section (1) shall direct that the person to whom it relates appear or be brought before the court that made the order for conditional discharge.

(3) Where a person in respect of who an order for conditional discharge has been made by the Criminal Division of the High Court is convicted by a court referred to in section 43(a) or (b) of an offence committed during the period of conditional discharge, that court may either commit the offender to custody, or release the offender on bail until the offender may be brought before the Criminal Division of the High Court, and that court shall immediately send to the Registrar of the High Court a copy of the record of the conviction entered by that court and signed by the Clerk of Court of that court.

(4) Where it is proved to the satisfaction of the court that made an order for conditional discharge that the offender in respect of who the order was made has been convicted of an offence committed during the period of conditional discharge, the court may deal with the offender, for the offence for which the order was made, in any manner in which it could deal with the offender if the offender had just been convicted by or before that court of that offence.

(5) If a person in respect of who an order for conditional discharge has been made by a court referred to in section 43(a) or (b) (hereinafter called the “first court”) is convicted before a court referred to in section 43(c), (d) or (e) (hereinafter called the “latter court”) of an offence committed during the period of conditional discharge, the latter court may deal with the offender for the offence for which the order was made in any manner in which the first court could deal with the offender if it had just convicted the offender of that offence.

(6) For the purposes of section 50 and this section, where an order for conditional discharge has been made on appeal, the order shall be treated as having been made by the court from which the appeal was brought.

(7) Subject to sub-section (8), the provisions of sections 43 and 44 are without prejudice to any rule of law for the time being allowing any criminal court in Belize to discharge an offender.

(8) Notwithstanding any Act or law to the contrary, a criminal court shall only discharge offenders in respect of the offences specified in Schedule I.

Schedule I.

(9) This section does not apply to offences specified in sub-section (10).

(10) The offences referred to in sub-section (9) are attempted murder, manslaughter, maim, dangerous or grievous harm, robbery, attempted robbery, assault with intent to rob, burglary or aggravated burglary, or an offence under—

(a) the Firearms Act; and

CAP.143.

(b) a sexual offence as defined in section 65 of the Criminal Code.

CAP.101.

PART XI

Restitution Orders and Restitution Centres

Restitution
to victims of
offences.

46. Where a person is convicted of an offence or discharged, the court imposing sentence on or discharging the offender may, on application of the Attorney General or a person who is the victim of the offence or on its own motion, in addition to any other measure imposed on the offender, order that the offender make restitution to another person as follows—

- (a) in the case of damage to, or the loss or destruction of, the property of any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding the replacement value of the property as of the date the order is imposed less the value of any part of the property that is returned to that person as of the date it is returned, where the amount is readily ascertainable;
- (b) in the case of bodily harm to any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding all pecuniary damages, including loss of income or support incurred as a result of the bodily harm, where the amount is readily ascertainable; and
- (c) in the case of bodily harm or threat of bodily harm resulting from the commission of the offence or the arrest or attempted arrest of the offender and caused to—
 - (i) the spouse or common law partner of the offender;

- (ii) the child of the offender; or
- (iii) any other person,

where the spouse, common law partner, child or other person was a member of the household of the offender at the relevant time, by paying to the person in question, independently of any amount ordered to be paid under paragraphs (a) or (b), an amount not exceeding actual and reasonable expenses incurred by that person as a result of moving out of the household of the offender for temporary housing, food, child care and transportation, where the amount is readily ascertainable.

47. Where a person is convicted of an offence or discharged and—

Restitution to persons acting in good faith.

- (a) any property obtained as a result of the commission of the offence has been conveyed or transferred for valuable consideration to a person acting in good faith and without notice; or
- (b) the offender has borrowed money on the security of that property from a person acting in good faith and without notice,

the court may, where that property has been returned to the lawful owner or the person who had lawful possession of that property at the time the offence was committed, order the offender to pay as restitution to the person referred to in paragraphs (a) or (b) an amount not exceeding the amount of consideration for that property or the total amount outstanding in respect of the loan, as the case may be.

48. Where the court finds it applicable and appropriate in the circumstances to make, in relation to an offender, an order of restitution under section 46 or 47, and—

Priority to restitution.

- (a) an order of forfeiture under this or any other law may be made in respect of property that is the same property in respect of which the order of restitution may be made; or
- (b) the court is considering ordering the offender to pay a fine and it appears to the court that the offender would not have the means or ability to comply with both the order of restitution and the order to pay the fine,

the court shall first make the order of restitution and shall then consider whether and to what extent an order of forfeiture or an order to pay a fine is appropriate in the circumstances.

Enforcing
restitution
order.

49. Where an amount that is ordered to be paid under section 46 or 47 is not paid immediately, the Registrar or the Clerk of the Court, as the case may be, shall enter as a judgment the amount ordered to be paid in any court that has jurisdiction to enter a judgment for that amount, and that judgment is enforceable by the person to whom the amount is ordered to be paid against the offender in the same manner as if it were a judgment rendered against the offender in that court in civil proceedings.

Moneys found
on offender.

50. All or any part of an amount that is ordered to be paid under section 46 or 47 may be taken out of moneys found in the possession of the offender at the time of the arrest of the offender if the court making the order, on being satisfied that ownership of or right to possession of those moneys is not disputed by claimants other than the offender, so directs.

Notice of
restitution
order.

51. Where a court makes an order of restitution under section 46 or 47, it shall cause notice of the content of the order, or a copy of the order, to be given to the person to whom the restitution is ordered to be paid.

Civil remedy
not affected.

52. A civil remedy for an act or omission under any other law shall not be affected by reason only that an order for

restitution under section 46 or 47 has been made in respect of that act or omission.

53.—(1) The Minister may establish facilities to be known as restitution centres.

Restitution centres.

(2) The purpose of a restitution centre shall be to provide a means for a person sentenced to prison to be able to pay the financial restitution of the victim as ordered by the sentencing court, or as agreed upon by the offender and the victim.

54.—(1) The Minister shall by regulations provide—

Regulation of restitution centres.

- (a) for the supervision, management, and control of the restitution centres;
- (b) for the transfer of offenders to the restitution centres;
- (c) for the care, custody, discipline, and employment of persons confined in the restitution centres; and
- (d) generally for the operation of such centres.

(2) The supervision of inmates in the restitution centres may be by contract with private nonprofit or profit corporations, or by prison officers on a 24-hour basis.

55. An offender is eligible for placement in a restitution centre if that person—

Eligibility for placement in restitution centre.

- (a) has not served a term of imprisonment within five years prior to the present conviction;
- (b) does not have a criminal history of a conviction for the misuse of drugs or for a crime involving violence or sex;

- (c) did not receive a sentence of more than thirty six months;
- (d) presents no unacceptable risk to the community; and
- (e) is employable.

**Payment of
offender.**

56.—(1) An offender shall perform all the labour reasonably required to maintain the restitution centre and meet the needs of the offender unless the operator of the centre finds that a particular task can be better performed by any other person.

(2) The operator of the centre may employ and pay compensation to an offender to perform work at a centre.

(3) Wages earned by an offender shall be paid directly to the Registrar or Clerk of Court, as the case may be.

(4) Wages received by the Registrar or Clerk of Court, as the case may be, shall be used to reimburse the offender for costs directly associated with continued employment, including transportation, special tools or clothing, meals away from the centre, and other employee related costs and the remaining wages shall, notwithstanding any other law, be distributed as follows—

- (a) one-third shall be transferred to the operator of the centre to pay the costs of operating and maintaining the restitution centre;
- (b) one-third shall be used to pay restitution pursuant to the agreement or court order; and
- (c) after the restitution is paid, the Registrar or Clerk of Court, as the case may be, shall use the remainder of the moneys to defray the court costs and attorney fees incurred in the prosecution of the offender and if all restitution, court costs

and attorney fees are paid, the remainder not expended pursuant to this section at the time the offender is released from the restitution centre shall be paid to the offender.

PART XII

Fine Option Programme

57.—(1) The court may order that an offender who is fined under any law, whether or not that person is serving a term of imprisonment imposed in default of payment of the fine, discharge the fine in whole or in part by earning credits for work performed during a period not exceeding two years in a fine option programme established for that purpose by the Department if the offender is admissible to such a programme.

Fine option programme.

(2) A programme referred to in sub-section (1) shall determine the rate at which credits are earned and may provide for the manner of crediting any amounts earned against the fine and any other matters necessary for, or incidental to, carrying out the programme.

(3) Credits earned for work performed as provided by sub-section (1) shall be deemed to be payment in respect of a fine.

(4) A court shall not make an order for an offender to discharge a fine by earning credits for work performed during a period in a fine option programme unless the court has been notified by the Department that arrangements for fine option programme are available.

PART XIII

Probation Orders

Power of court to permit conditional release of offender.

58.—(1) Where any person is charged with an offence which is punishable on summary conviction, and the court thinks that the charge is proved but is of the opinion that having regard to the circumstances, including the nature of the offence and the character and home surroundings of the offender, it is expedient to release the offender on probation, the court may—

- (a) convict the offender and make a probation order; or
- (b) without proceeding to conviction, make a probation order.

(2) Where any person is convicted of an offence which is not punishable on summary conviction, and the court is of opinion that, having regard to the circumstances, including the nature of the offence and the character and home surroundings of the offender, it is expedient to release the offender on probation, the court may in lieu of imposing a sentence of imprisonment make a probation order.

(3) Notwithstanding sub-sections (1) and (2), before making a probation order, the court shall explain to the offender in ordinary language the effect of the order and that, if the offender fails in any way to comply with the order or commits another offence, the offender shall be liable to be sentenced or to be convicted and sentenced for the original offence, and the court shall not make a probation order unless the offender expresses a willingness to comply with the order.

Probation order.

59.—(1) A probation order shall have effect for such period being not less than one year and not exceeding three years

from the date of the order as may be specified in the order, and shall—

- (a) require the probationer to submit during that period to the supervision of a community rehabilitation officer appointed for or assigned to the district in which the probationer will reside after the making of the order; and
- (b) contain such provisions as the court considers necessary for securing the supervision of the probationer, and such additional conditions as to residence and other matters as the court, having regard to the circumstances of the case, considers necessary for securing the good conduct of the probationer or for preventing a repetition of the same offence or the commission of other offences.

(2) Where a probation order contains a provision as to residence, the place at which and the period for which the probationer is to reside shall be specified in the order, and where any such provision requires the probationer to reside in an institution, the period for which the probationer is required to reside shall not exceed twelve months from the date of the order, and the court shall give notice of the terms of the order to the Director.

(3) A probation order may require the probationer to participate or refrain from participating in activities specified in the order—

- (a) on a day specified; or
- (b) during the probation period or such portion of it as may be so specified.

(4) The court shall only require the probationer to participate or refrain from participating in activities where it

is satisfied that it is feasible to secure compliance with such a requirement.

(5) A court shall not include a requirement to participate in activities if it would involve the cooperation of a person other than the probationer and the community rehabilitation officer of the probationer, unless that other person consents to its inclusion.

(6) A requirement to participate in activities shall operate to require the probationer—

- (a) in accordance with instructions given by the community rehabilitation officer, to participate in activities for not exceeding sixty days in the aggregate; and
- (b) while participating, to comply with instructions given by, or under the authority of, the person in charge of the activities.

(7) Instructions given by the community rehabilitation officer of the probationer under sub-section (6) shall, as far as practicable, be such as to avoid—

- (a) any conflict with the religious beliefs of the probationer or with the requirements of any other order to which the probationer may be subject; and
- (b) any interference with the times, if any, at which the probationer normally works or attends school or any other educational establishment.

(8) The court by which a probation order is made shall furnish two copies of the order, one copy to be given to the probationer and the other to the community rehabilitation officer under whose supervision the probationer is placed.

60.—(1) Where a person is placed by a probation order under the supervision of a community rehabilitation officer, the court may, without prejudice to its powers of awarding costs against the probationer, order the probationer to pay such damages for injury or compensation for loss as the court thinks reasonable, but not in the case of an order made by magistrate court exceeding in the aggregate one hundred dollars or such greater sum as may be allowed by any enactment relating to the offence.

Further provisions where court makes probation order.

(2) Where a court makes any such order for the payment of damages or compensation, the order may be enforced in like manner as an order for the payment of costs by the probationer, and where the court, in addition to making such an order for the payment of damages or compensation to any person, orders the probationer to pay to that person any costs, the orders for the payment of damages or compensation and for the payment of costs may be enforced as if they constituted a single order for the payment of costs.

61.—(1) Where it appears to a judge or any magistrate that a probationer has been convicted of an offence while the probation order was in force, the judge or magistrate may issue a summons requiring the probationer to appear at the place and time specified in the summons or may issue a warrant for the arrest of the probationer.

Commission of further offences by probationer.

(2) A judge or magistrate shall not issue a summons or warrant under sub-section (1) except on information in writing and on oath.

(3) A summons or warrant issued under this section shall direct the probationer to appear or to be brought before the court by which the probation order was made.

(4) Where a probationer is convicted by a judge or magistrate of an offence committed while the probation order was in force, the judge or magistrate may commit the

probationer to custody or release the probationer on bail, with or without sureties, until the probationer can be brought or appear before the court by which the probation order was made.

(5) Where it is proved to the satisfaction of the court by which the probation order was made that the probationer has been convicted of an offence while the probation order was in force, then, if the probationer—

- (a) was not convicted of the original offence in respect of which the probation order was made, the court may convict the probationer of that offence and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or
- (b) was convicted of the original offence in respect of which the probation order was made, the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence.

(6) Where a probationer in respect of whom a probation order has been made by a magistrate is convicted before the High Court of an offence committed while the probation order was in force, then, if the probationer—

- (a) was not convicted of the original offence in respect of which the probation order was made, the High Court may convict the probationer of that offence and may pass any sentence which the court that made the probation order could pass if the probationer had just been convicted before that court of that offence; or
- (b) was convicted of the original offence in respect of which the probation order was made, the High Court may pass any sentence which the

court that made the probation order could pass if the probationer had just been convicted before that court of that offence.

62.—(1) Where it appears to a judge or magistrate that a probationer has failed to comply with any of the provisions of the probation order, the judge or magistrate may issue a summons to the probationer requiring the probationer to appear at the place and time specified in the summons or may issue a warrant for the arrest of the probationer.

Failure by probationer to comply with probation order.

(2) A judge or magistrate shall not issue such a summons except on information, and shall not issue such a warrant except on information in writing and on oath.

(3) A summons or warrant under this section shall direct the probationer to appear or to be brought before the court by which the probation order was made.

(4) Where it is proved to the satisfaction of the court by which the probation order was made that the probationer has failed to comply with any of the provisions of the probation order, then—

- (a) without prejudice to the continuance in force of the probation order, the court may impose on the probationer a fine of one thousand dollars;
- (b) if the probationer was not convicted of the original offence in respect of which the probation order was made, the court may convict the probationer and pass any sentence which it could pass if the probationer had just been convicted before that court of that offence; or
- (c) if the probationer was convicted of the original offence in respect of which the probation order was made,

the court may pass any sentence which it could pass if the probationer had just been convicted before that court of that offence.

(5) Where a court has under sub-section (4)(a) imposed a fine on the probationer, then on any subsequent sentence being passed upon the probationer under section 61 or this section, the imposition of the said fine shall be taken into account in fixing the amount of the sentence.

Disqualification
or disability
in respect of
probation
order.

63.—(1) Where a person is convicted of an offence and is released under a probation order, the conviction for that offence shall be disregarded for the purposes of any enactment by or under which any disqualification or disability is imposed upon offenders or by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after previous conviction.

(2) Notwithstanding sub-section (1), if the probationer is subsequently sentenced for the original offence, this section shall cease to apply in respect of that offence, and the probationer shall be deemed, for the purposes of any such enactment imposing a disqualification or disability, to have been convicted on the date of sentence.

(3) Where a person is released on probation without the court having proceeded to conviction, and that person is subsequently convicted and sentenced for the original offence, that person shall be deemed, for the purposes of any enactment by or under which any disqualification is imposed upon an offender or by or under which provision is made for a different penalty in respect of a second or subsequent offence or in respect of an offence committed after a previous conviction, to have been convicted on the date of such conviction and sentence.

64.—(1) Where a probationer is committed to custody or released on bail by a magistrate until the probationer can be brought or appear before the court which made the probation order, the magistrate shall transmit to the said court such particulars of the case as the magistrate thinks desirable.

Transmission of documents when case is remitted to another court.

(2) Where the probationer has been convicted of a subsequent offence by a magistrate, the magistrate shall transmit to the court which made the probation order a certificate to that effect signed by the magistrate.

(3) For the purposes of proceedings in the court to which the particulars of the case are transmitted, a signed certificate referenced in sub-section (2) shall be admissible as evidence of the conviction.

65.—(1) Subject to sub-sections (2) to (5), where, on the application of a probationer or of the community rehabilitation officer responsible for supervision of the probationer, the court which made the probation order is satisfied that the provisions of the probation order should be varied, or that any provision should be inserted or cancelled, the court may, by order, amend the probation order accordingly.

Amendment of probation order.

(2) No order shall be made under this section reducing the period of duration of the probation order, or extending that period beyond a period of three years from the date of the probation order.

(3) An order under sub-section (1) may require a probationer to reside in an institution for any period not exceeding twelve months from the date of that order if the total period for which the probationer is required to reside in any institution under the probation order does not exceed twelve months.

(4) The court shall, if it is satisfied on the application of the community rehabilitation officer responsible for the supervision of the probationer that the probationer has

changed, or is about to change, residence from the district named in the order to another district, by order, vary the probation order by substituting for the reference to the district named in the order a reference to the district where the probationer is residing or is about to reside, and shall transmit to the court for the new district all documents and information relating to the case, and the last mentioned court shall be deemed to be the court by which the probation order was made.

(5) An order under this section cancelling a provision of a probation order or substituting a new district for the district named in the probation order may be made without summoning the probationer, but no other order under this section shall be made except on the application or in the presence of the probationer.

(6) Where an order is made under this section for the variation, insertion, or cancellation of a provision requiring a probationer to reside in an institution, the court shall immediately give notice of the terms of the order to the Director.

Discharge of probationer.

66.—(1) The court by which a probation order was made may, on the application of the probationer or of the community rehabilitation officer responsible for the supervision of the probationer, discharge the probation order, and, where the application is made by the community rehabilitation officer, the court may deal with it without summoning the probationer.

(2) Where a probationer is subsequently sentenced for the offence in respect of which the probation order was made, the probation order shall cease to have effect.

Transmission of copies of orders for amendment or discharge of probation order.

67.—(1) Where an order is made for the amendment of a probation order, the Registrar or the Clerk of the Court, as the case may be, by which the order is made shall furnish two copies of the order to the community rehabilitation officer responsible for the supervision of the probationer.

(2) Where an order is made for the discharge of a probation order, the Registrar or the Clerk of the Court, as the case may be, by which the order is made shall furnish two copies of the order to the community rehabilitation officer who was responsible for the supervision of the probationer before the making of the order, and that community rehabilitation officer shall give one copy to the probationer.

68.—(1) Subject to sub-sections (3) and (4), in any case where a court might make a probation order under section 58(1) (a) or under section 58(2) if the court is of the opinion that it is expedient to release the offender on probation and that by reason of the special circumstances of the case no useful purpose would be served by placing the offender under the supervision of a community rehabilitation officer, the court may convict the offender and make an order discharging the offender conditionally upon entering into a recognizance, with or without surety, to be of good behaviour and to appear for sentence when called upon at any time during a period not exceeding three years, as may be specified in the recognizance.

Power to
release
offenders
conditionally
upon
entering into
recognizances.

(2) Subject to sub-sections (3) and (4), in any case where a court might make a probation order under section 58(1) (b) if the court is satisfied that it is expedient to release the offender on probation and that by reason of the special circumstances of the case no useful purpose would be served by placing the offender under the supervision of a community rehabilitation officer, the court may, without proceeding to conviction, make an order discharging the offender conditionally upon entering into a recognizance, with or without a surety, to be of good behaviour and to appear for conviction and sentence when called upon, at any time during a period not exceeding three years, as may be specified in the recognizance.

(3) Before making an order under this section, the court shall explain to the offender in ordinary language the effect of the recognizance into which the offender is required to

enter and that if the offender fails in any respect to comply with the recognizance or commits another offence, the recognizance shall be liable to be escheated and the offender shall be liable—

- (a) in the case of an offender who is required to enter into a recognizance under sub-section (1), to be sentenced for the original offence; and
- (b) in the case of an offender who is required to enter into a recognizance under sub-section (2), to be convicted and sentenced for the original offence.

(4) No order shall be made under this section unless the offender expresses a willingness to comply with the conditions of the recognizance into which the offender is required by an order to enter.

Recognizances.

69.—(1) Every recognizance entered into pursuant to an order under section 68 shall contain conditions, being conditions which might be contained in a probation order, as may be specified in such order.

(2) Where a recognizance contains a condition as to residence, the place at which and the period for which the offender who enters into the recognizance is to reside shall be specified in the recognizance, and where any such condition requires the offender to reside in an institution, the period for which the offender is required so to reside shall not exceed twelve months from the date of the recognizance.

(3) The court by which any order under section 68 is made shall furnish a copy of the recognizance entered into pursuant to such order to the offender who enters into such recognizance.

70. Sections 60 to 67 shall apply to any person required under section 68 to enter into a recognizance as they apply to a probationer.

Application of certain provisions to persons entering into recognizances under section 68.

71. The community rehabilitation officer responsible for the supervision of a probationer shall be selected by the Department, and, if the community rehabilitation officer so selected dies or is unable for any reason to carry out the duties of that community rehabilitation officer, another community rehabilitation officer shall be selected by the Department.

Selection of community rehabilitation officers.

72. Contributions may be made towards the establishment or maintenance of homes or hostels for the reception of persons placed under the supervision of community rehabilitation officers as may be provided by resolution of the National Assembly.

Contributions towards homes and hostels.

PART XIV

Orders for Persistent Petty Offenders

73.—(1) This section applies where—

- (a) a person who is eighteen years of age or older is convicted of an offence;
- (b) the court before which that person is convicted is satisfied that each of the conditions mentioned in sub-section (2) is fulfilled; and
- (c) if it were not so satisfied, the court would be minded to impose a fine in respect of the offence.

Curfew orders and community service orders for persistent petty offenders

(2) The conditions are that—

- (a) one or more fines imposed on the offender in respect of one or more previous offences have not been paid; and
 - (b) if a fine were imposed in an amount which was commensurate with the seriousness of the offence, the offender would not have sufficient means to pay it.
- (3) The court may, subject to sub-section (4), make a–
- (a) curfew order under section 21(1); or
 - (b) community service order in respect of the offender instead of imposing a fine.

(4) A court shall not make an order by virtue of sub-section (3)(a) or (b) unless the court has been notified by the Department that arrangements for implementing orders so made are available in the relevant area and the notice has not been withdrawn.

- (5) In sub-section (4), “relevant area” means–
- (a) in relation to a curfew order, the area in which the place proposed to be specified in the order is situated; and
 - (b) in relation to a community service order, the area proposed to be specified in the order.

PART XV

Custodial Sentences

Restrictions on the imposition of custodial sentences.

74.–(1) This section applies where a person is convicted of an offence punishable with a custodial sentence.

(2) Subject to sub-section (3), the court shall not pass a custodial sentence on the offender unless it is of the opinion—

- (a) that the offence was so serious that only such a sentence can be justified for the offence;
- (b) where the offence is a violent or sexual offence, that only such a sentence would be adequate to protect the public from serious harm from the offender; or
- (c) where the offender is a juvenile, the offender was informed of the right to legal representation.

(3) Nothing in sub-section (2) prevents the court from passing a custodial sentence on an offender if the offender refuses to consent to an alternative sentence which is proposed by the court and requires that consent.

(4) Where a court passes a custodial sentence, it is the duty of the court—

- (a) in a case not falling within sub-section (3), to state in open court that it is of the opinion that paragraphs (a) or (b) of sub-section (2) applies and why it is of that opinion; and
- (b) in any case, to explain to the offender in open court and in ordinary language why it is passing a custodial sentence on the offender.

(5) A court shall cause the reasons stated by it under sub-section (4) to be specified in the warrant of commitment and to be entered in the record of the court.

75.—(1) The custodial sentence shall be—

**Length of
custodial
sentence.**

- (a) for a term not exceeding the permitted maximum as in the opinion of the court is commensurate with the seriousness of the offence; or
- (b) where the offence is a violent or sexual offence, for a longer term not exceeding that maximum as in the opinion of the court is necessary to protect the public from serious harm from the offender.

(2) Where the court passes a custodial sentence for a term longer than is commensurate with the seriousness of the offence, the court shall—

- (a) state in open court that it is of the opinion that sub-section (1)(b) applies and why it is of that opinion; and
- (b) explain to the offender in open court and in ordinary language why the sentence is for such a term.

Procedural requirements for custodial sentences.

76.—(1) Subject to sub-section (2), a court shall obtain from the Department and consider a pre-sentence report before forming any such opinion under section 74(2) or 75(2).

(2) Where the offence is triable only on indictment, sub-section (1) shall not apply if, in the circumstances of the case, the court is of the opinion that it is unnecessary to obtain a pre-sentence report.

(3) In forming any such opinion under section 74(2) or 75(2), a court—

- (a) shall take into account all such information about the circumstances of the offence, including any aggravating or mitigating factors as is available to the court; and

- (b) in the case of any such opinion, may take into account any information about the offender which is before the court.

(4) A custodial sentence which is passed in a case to which sub-section (1) applies shall not be invalidated by the failure of a court to comply with that sub-section but any court on an appeal against such a sentence shall—

- (a) obtain a pre-sentence report if none was obtained by the court; and
- (b) consider any such report obtained by it or by that court.

PART XVI

Miscellaneous

77.—(1) Without prejudice to sections 74 to 76, a court in sentencing an offender convicted before the court shall observe the general guidelines set forth in this section.

General
guidelines.

(2) The guidelines referred to in sub-section (1) are as follows—

- (a) the rehabilitation of the offender is one of the aims of sentencing;
- (b) the gravity of a punishment shall be commensurate with the gravity of the offence;
- (c) an offender shall not be sentenced except for an offence of which the offender has been convicted or for another offence or other offences which the offender has asked the court to take into consideration in passing sentence; and

- (d) where a fine is imposed, the court in fixing the amount of the fine shall take into account, among other relevant considerations, the means of the offender so far as these are known to the court, regardless whether this will increase or reduce the amount of the fine.

Victim impact statement.

78.—(1) For the purpose of determining the sentence to be imposed on an offender or whether the offender should be discharged in respect of any offence, the court may, in addition to any other matter, consider any statement made by the victim or by the prosecution on behalf of the victim describing the harm done to, or loss suffered by, the victim arising from the commission of the offence.

(2) A victim impact statement shall be in written form prepared by the victim and shall be filed with the court.

(3) At the request of a victim, the court may instruct the Registrar or the Clerk of the Court, as the case may be, to read the statement into the record in open court.

(4) Where the victim impact statement discloses confidential or sensitive information or material that may cause embarrassment or distress to the victim or the family of the victim, the court may direct that the statement be dealt with in camera.

(5) The prosecutor shall notify the victim, as soon as a date has been set for sentencing, as to the date fixed for sentencing and the right of the victim to make a victim impact statement.

(6) The Registrar or the Clerk of the Court, as the case may be, shall provide a copy of the victim impact statement, as soon as possible after a finding of guilt, to the offender or attorney-at-law for the offender and the prosecutor.

(7) As soon as practicable after a finding of guilt and in any event before sentence, the court shall inquire of the prosecutor or the victim of the offence whether the victim has been advised of the opportunity to make a victim impact statement.

(8) For the purposes of this section, victim, in relation to an offence—

- (a) means the person to whom harm is done or who suffers physical, financial or emotional loss as a result of the commission of the offence; and
- (b) where the person described in paragraph (a) is dead, ill or otherwise incapable of making a statement referred to in sub-section (1), includes the spouse, common law partner, or any relative of that person, anyone who has in law or fact the custody of that person or is responsible for the care or support of that person or any dependant of that person.

79. The Minister may make regulations prescribing—

Regulations.

- (a) the form of records to be kept under this Act;
- (b) the fees and charges for anything done under this Act;
- (c) the composition and functions of District Committees;
- (d) any forms necessary for the purposes of this Act; and
- (e) any matter required to give effect to the provisions of this Act.

Assisting
offender in
contravening
Act.

80. Subject to section 22, a person who conspires with or assists an offender in preventing or defeating the execution of this Act or any order made by a court under this Act commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or imprisonment for a term not exceeding one year, or both

Repeal.
CAP. 102:01.
CAP. 120.

81. The Penal System Reform (Alternative Sentences) Act and the Probation of Offenders Act are repealed.

Savings and
transitional.

82.—(1) Notwithstanding the repeal of the Penal System Reform (Alternative Sentences) Act and the Probation of Offenders Act, nothing in this Act shall affect anything done, any proceedings taken, or a right of action which has accrued or a liability which has been incurred under the repealed Act before the coming into force of this Act and anything done, any proceedings taken, or a right which has accrued or a liability which has been incurred under the repealed Act shall be deemed to have been done, taken, accrued or incurred, as the case may be under this Act.

Commencement.

83.—(1) This Act shall come into force on a date appointed by the Minister by order published in the *Gazette*.

(2) An order under sub-section (1) may appoint different dates for the commencement of different provisions of this Act.

SCHEDULE I

*[section 9(3)(d)]**List of Offences*

1. Common assault by a first offender.
2. Theft by a first offender not exceeding five hundred dollars.
3. Failure to pay maintenance money pursuant to the Families and Children Act. CAP. 173.
4. Provocation to fight.
5. Any offence committed by a first offender for which the maximum penalty is not more than one hundred dollars or six months imprisonment, or both.
6. Any petty misdemeanour or petty offence specified in Part II of the Summary Jurisdiction (Offences) Act committed by a first offender. CAP. 98.
7. A first offence for possession of cannabis or any other controlled drug of a quantity less than that specified under the Misuse of Drugs Act as the minimum quantity the possession of which is deemed to be possession for the purpose of supplying another person or for drug trafficking. CAP. 103.
8. A first offence involving smoking or otherwise using prepared cocaine, or cannabis.
9. Any abetment of, or attempt to commit, the crimes listed in this Schedule.

SCHEDULE II

*[section 13(4)]**Type of Work*

1. Work at or for any hospital, or at or for any charitable, educational, cultural, or recreational institution or organization.
2. Work at or for any other institution or organization for old, infirm or handicapped persons.
3. Work on any land that is leased, occupied, administered, maintained or kept clean by the Government or any public statutory body.