



IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 11362, OTHERWISE KNOWN AS THE "COMMUNITY SERVICE ACT"

RULE I GENERAL PROVISIONS

SECTION 1. Title. This Rule shall be known as the Implementing Rules and Regulations (IRR) of Republic Act (R.A.) No. 11362, entitled "An Act Authorizing the Court to Require Community Service in Lieu of Imprisonment for the Penalties of Arresto Menor and Arresto Mayor, Amending for the Purpose Chapter 5, Title 3, Book 1, of Act No. 3815, as Amended, Otherwise Known as the 'Revised Penal Code', otherwise known as the "Community Service Act."

SECTION 2. Purpose. This Implementing Rules and Regulations (IRR) is promulgated to prescribe the guidelines and procedures in the implementation of the Community Service Act, in order to: (a) promote the correction and rehabilitation of life of an offender by providing him with a community-based treatment; (b) provide an opportunity for their reformation and reintegration into the community; and (c) prevent the recommission of offenses.

SECTION 3. Declaration of Policy. It is the policy of the State to promote restorative justice and decongest jails by authorizing the court, in its discretion, to require community service in lieu of service in jail for offenses punishable by *arresto menor* and *arresto mayor*.

Consistent with its constitutionally-declared policy that "the State values the dignity of every human person and guarantees full respect for human rights" and its obligations as a State party to some, if not most, of the International Human Rights instruments, the Philippine government has undertaken measures to improve the treatment of offenders.

SECTION 4. Construction. The Community Service Act and this IRR shall be liberally construed in favor of the offender, provided that, the welfare of the society is not at risk. The privilege of community service provided by the law shall take the form of an alternate penalty.

SECTION 5. Definition of Terms. For purposes of this IRR, the following terms shall be defined as follows:

- (a) **Arresto Mayor** - a correctional penalty which imposes imprisonment for a duration of one (1) month and one (1) day to six (6) months as provided under Article 27 of the Revised Penal Code.
- (b) **Arresto Menor** - a light penalty which imposes imprisonment for a duration of one (1) day to thirty (30) days as provided under Article 27 of the Revised Penal Code.
- (c) **Community Service** - service(s) that will be rendered by an eligible convicted offender which consists of any actual physical activity which inculcates civic consciousness and is intended towards the improvement of a public work or promotion of public service. Such service shall not physically nor psychologically degrade the well-being of the offender.
- (d) **Court** - refers to the trial court having jurisdiction over the case.
- (e) **Local Social Welfare and Development Officer (LSWDO)** - refers to the Social Welfare Officer of the city or municipality where the offender is assigned to serve, under the jurisdiction of the local chief executive, who is responsible for providing rehabilitative counselling to the offender.
- (f) **Offender** - refers to a person convicted of a crime punishable by *arresto menor* or *arresto mayor*.
- (g) **Probation and Parole Officer** - refers to an officer under the Parole and Probation Administration (PPA) responsible for the supervision of an eligible convicted offender placed under community service.
- (h) **Rehabilitative Counselling** - refers to the intervention administered by the LSWDO, or in their absence by the Department of Social Welfare and Development (DSWD), aimed at behavioral transformation towards a renewed functional condition.

RULE II SCOPE AND APPLICATION

SECTION 6. Offenders convicted of a crime with a penalty of *arresto menor* or *arresto mayor* may be required to render community service in lieu of service in jail.

RULE III ELIGIBILITY FOR GRANTING COMMUNITY SERVICE

SECTION 7. The court, in its discretion, may require the offender to render community service taking into consideration the following:

- (a) The gravity of the offense and the circumstances of the case;
- (b) The offender poses no threat to the welfare of the society where he/she will serve the penalty;
- (c) There is a reasonable probability that the offender shall not violate the law while rendering community service; and,
- (d) The offender has not been previously required to render community service under the Community Service Act, as certified by the PPA.

Subject to rules or guidelines the Supreme Court may issue, the court, in its discretion, may determine items (b) and (c) by seeking the recommendation of proper authorities, such as, but not limited to: (a) barangay officials, (b) local police, (c) LSWDO, (d) Bureau of Jail Management and Penology (BJMP), or (e) PPA.

SECTION 8. Considering the similarities in the intent of Presidential Decree No. 968, as amended by R.A. No. 10707, otherwise known as the "Probation Law", and the Community Service Act, any person who was convicted of a crime punishable by *arresto menor* or *arresto mayor* and was not required to render community service may avail the privileges under the Probation Law.

RULE IV AVAILMENT OF COMMUNITY SERVICE BY OFFENDERS ALREADY SERVING SENTENCE

SECTION 9. Subject to rules or guidelines the Supreme Court may issue, offenders who are already serving sentence in jail upon effectivity of this IRR, may apply for the alternate penalty of community service by filing a motion in court.

SECTION 10. All motions shall be decided by the court within the prescribed period provided by the Rules of Court, or any issuances of the Supreme Court.

RULE V COMMUNITY SERVICE

SECTION 11. In requiring community service, the court will prepare an order specifying the number of hours to be worked and the period within which to complete said service.

SECTION 12. The assigned Probation and Parole Officer shall monitor and evaluate the compliance of the offender.

SECTION 13. Offenders convicted of a crime punishable by *arresto menor* and *arresto mayor* are given a maximum period of thirty (30) days and one hundred eighty days (180), respectively, to render community service.

SECTION 14. The court may order a shorter period of community service based on the following grounds:

- (a) advanced age of the offender;
- (b) in case of pregnant women;
- (c) health condition(s) of the offender; or,
- (d) good conduct of the offender provided by a competent authority.

SECTION 15. In case the offender was ordered to pay fine/s, and the latter has no capacity to pay, the court shall compute the number of hours or days to be served by the offender in accordance with the rules in subsidiary penalty, under Article 39 of the *Revised Penal Code*. The period of service under this section is separate from the maximum period of community service under Section 13 of this IRR.

SECTION 16. The court shall take into consideration the period that the offender was detained in determining the number of hours or days and period of community service to be served by the offender.

SECTION 17. All offenders shall render their community service in the city or municipality where the crime was committed, except in the following circumstances, subject to the discretion of the court:

- (a) When the welfare of the community may be at risk, the offender may serve community service in another area;
- (b) When there is risk to the safety and security of the offender; and,
- (c) Upon the request of the offender and the recommendation of the Probation and Parole Officer.

When the crime was committed in several jurisdictions, community service shall be served where the monitoring, evaluation, and counselling of the offender is better satisfied.

SECTION 18. An offender may be required to render community service only once. Offenders who have not previously completed community service are ineligible to avail again the benefits under the Community Service Act.

SECTION 19. All court orders for community service shall be numbered consecutively in the order received by the PPA and recorded in a docket book specifically for those who were penalized with community service for the purpose of recordkeeping. The docket book must indicate, among others, the date of receipt of the court order, the court, its branch and address, offender's name, criminal case number, description/designation of the offense, number of hours to be worked, period for the offender to complete community service, and other related data and information.

SECTION 20. The court may identify the community service to be performed by the offender. In absence thereof, the Probation and Parole Officer shall recommend the appropriate community service to the court.

SECTION 21. The PPA shall be responsible in issuing its internal guidelines for the proper monitoring and evaluation of the offender.

RULE VI REHABILITATIVE COUNSELING

SECTION 22. All offenders shall undergo counselling with the LSWDO of the local government unit (LGU) covering the area where the offender is assigned. In case of unavailability of any LSWDO, the DSWD may provide the counselling necessary for the offender. However, once an LSWDO is made available by the LGU, the offender shall be referred to the LSWDO for continuation of the counselling.

SECTION 23. To ensure the restoration of the offender's societal role, the LSWDO shall formulate a rehabilitative plan, based on guidelines to be formulated by the DSWD and the PPA. The LSWDO may refer the offender to other professional services if necessary for the betterment of the welfare of the offender; provided that, the LSWDO shall be responsible in monitoring the rehabilitative counselling of the

offender, in coordination with the assigned Probation and Parole Officer.

SECTION 24. The LSWDO shall provide a report to the Probation and Parole Officer, in accordance with the guidelines of DSWD and PPA, indicating therein the following: (a) assessment of the offender's social functioning; (b) the actions and referrals done by the LSWDO; and, (c) the reports and assessments of other professional services referred by the LSWDO.

SECTION 25. The LSWDO may recommend to the Probation and Parole Officer, for the cancellation of the community service if there is well-founded belief that the offender is likely to commit any crime(s) or is a risk to the community.

SECTION 26. If, during the rehabilitation of the offender, the LSWDO determines that it is already physically impossible or unbeneficial for the offender to continue with the community service, the LSWDO shall make the necessary recommendation to the Probation and Parole Officer, either to: (a) provide the offender an alternative community service; (b) shorten the number of hours or days to be served; or (c) subject the offender to house arrest.

SECTION 27. All recommendations given by the LSWDO shall be assessed by the Probation and Parole Officer who shall make the appropriate actions. However, any recommendation to modify the terms of community service must be submitted to the court for approval.

RULE VII RE-ARREST

SECTION 28. An offender who has been granted community service may be re-arrested based on the following grounds:

- (a) Violation of the terms of community service;
- (b) Commission of another offense;
- (c) Unjustified failure of the offender to attend the counselling, as scheduled by the LSWDO or any other professional help engaged by the LSWDO;
- (d) Unjustified failure of the offender to report to the Probation and Parole Officer or the court when required to do so;
- (e) Upon official recommendation of the LSWDO;
- (f) Failure of the offender to report to the Probation and Parole Officer within forty-eight (48) hours after a fortuitous event or force *majeure*; or,
- (g) Failure of the offender to report to the Parole and Probation Office within seventy-two (72) hours from promulgation.

SECTION 29. An offender may be re-arrested only upon the order of the court, by motion of the Probation and Parole Officer.

In accordance with Section 28 of this IRR, any interested person may recommend to the Probation and Parole Officer for the re-arrest of the offender.

SECTION 30. During the pendency of the issuance of the order of re-arrest, the Probation and Parole Officer shall continue to monitor the whereabouts of the offender and shall notify the LSWDO.

SECTION 31. Re-arrested offenders may challenge the order for re-arrest in court that issued the order of re-arrest.

SECTION 32. An offender, who was re-arrested in accordance with the provision of the Community Service Act and this IRR, shall serve the full term of the penalty either in jail or in the house of the offender, when the court so provides, under the surveillance of an officer of the law, such as but not limited to (a) barangay officials, tanod, security or police (b) members of the Philippine National Police or (c) such other officer as may be determined by the court.

RULE VIII RELEASE

SECTION 33. An offender may be released from community service only upon order of the court.

SECTION 34. The order of release may be issued by the court upon submission of a report by the Probation and Parole Officer, or upon showing by the offender that he/she has fully complied with the terms of the community service.

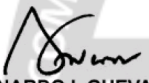
SECTION 35. Pending the issuance of the order of release by the court, the offender shall be discharged from rendering community service. The offender shall continue to report to the Probation and Parole Officer when required to do so. In case the offender fails to appear in court or to report to the Probation and Parole Officer, the offender shall be re-arrested in accordance with provisions of this IRR.

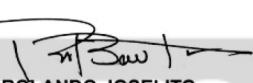
RULE IX MISCELLANEOUS PROVISIONS

SECTION 36. Repealing Clause. Any or all existing provisions of any issuances inconsistent or contrary with any provision of this IRR is hereby amended or modified accordingly.

SECTION 37. Separability Clause. If any part, section, or provision of this IRR is held invalid, or unconstitutional, the other parts, sections, or provision of this IRR not affected thereby shall remain in force and effect.

SECTION 38. Effectivity Clause. This IRR shall take effect immediately upon publication at a newspaper of general circulation and upon deposit of a copy to the University of the Philippines Law Center - Office of the National Administrative Register.


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