

SCHEDULES

SCHEDULE 10

SUPERVISION

PART I

SECTIONS SUBSTITUTED FOR SECTION 12 OF CHILDREN AND YOUNG PERSONS ACT 1969

Power to include requirements in supervision orders

- 12 (1) A supervision order may require the supervised person to reside with an individual named in the order who agrees to the requirement, but a requirement imposed by a supervision order in pursuance of this subsection shall be subject to any such requirement of the order as is authorised by the following provisions of this section or by section 12A, 12B or 12C below.
- (2) Subject to section 19(12) of this Act, a supervision order may require the supervised person to comply with any directions given from time to time by the supervisor and requiring him to do all or any of the following things—
- (a) to live at a place or places specified in the directions for a period or periods so specified;
 - (b) to present himself to a person or persons specified in the directions at a place or places on a day or days so specified;
 - (c) to participate in activities specified in the directions on a day or days so specified;
- but it shall be for the supervisor to decide whether and to what extent he exercises any power to give directions conferred on him by virtue of this subsection and to decide the form of any directions; and a requirement imposed by a supervision order in pursuance of this subsection shall be subject to any such requirement of the order as is authorised by section 12B(1) of this Act.
- (3) The total number of days in respect of which a supervised person may be required to comply with directions given by virtue of paragraph (a), (b) or (c) of subsection (2) above in pursuance of a supervision order shall not exceed 90 or such lesser number, if any, as the order may specify for the purposes of this subsection; and for the purpose of calculating the total number of days in respect of which such directions may be given the supervisor shall be entitled to disregard any day in respect of which directions were previously given in pursuance of the order and on which the directions were not complied with.

Young offenders

- 12A (1) Subject to subsection (2) of this section, this subsection applies to—

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- (a) any supervision order made under section 7(7) of this Act in respect of a child or young person found guilty as there mentioned; and
 - (b) any supervision order made in respect of a person under section 21(2) of this Act by a court on discharging a care order made in respect of him under the said section 7(7).
- (2) Subsection (1) of this section does not apply to any supervision order which by virtue of section 12(2) above requires the supervised person to comply with directions given by the supervisor.
- (3) Subject to the following provisions of this section and to section 19(13) of this Act, a supervision order to which subsection (1) of this section applies may require a supervised person—
- (a) to do anything that by virtue of section 12(2) of this Act a supervisor has power, or would but for section 19(12) of this Act have power, to direct a supervised person to do;
 - (b) to remain for specified periods between 6 p.m. and 6 a.m.—
 - (i) at a place specified in the order; or
 - (ii) at one of several places so specified;
 - (c) to refrain from participating in activities specified in the order—
 - (i) on a specified day or days during the period for which the supervision order is in force; or
 - (ii) during the whole of that period or a specified portion of it.
- (4) Any power to include a requirement in a supervision order which is exercisable in relation to a person by virtue of this section or the following provisions of this Act may be exercised in relation to him whether or not any other such power is exercised.
- (5) The total number of days in respect of which a supervised person may be subject to requirements imposed by virtue of subsection (3)(a) above shall not exceed 90.
- (6) The court may not include requirements under subsection (3) above in a supervision order unless—
- (a) it has first consulted the supervisor as to—
 - (i) the offender's circumstances; and
 - (ii) the feasibility of securing compliance with the requirements,and is satisfied, having regard to the supervisor's report, that it is feasible to secure compliance with them;
 - (b) having regard to the circumstances of the case, it considers the requirements necessary for securing the good conduct of the supervised person or for preventing a repetition by him of the same offence or the commission of other offences; and
 - (c) the supervised person or, if he is a child, his parent or guardian, consents to their inclusion.
- (7) The court shall not include in such an order by virtue of subsection (3) above—
- (a) any requirement that would involve the co-operation of a person other than the supervisor and the supervised person unless that other person consents to its inclusion; or
 - (b) any requirement requiring the supervised person to reside with a specified individual; or
 - (c) any such requirement as is mentioned in section 12B(1) of this Act.

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- (8) The place, or one of the places, specified in a requirement under subsection (3)(b) above (“a night restriction”) shall be the place where the supervised person lives.
- (9) A night restriction shall not require the supervised person to remain at a place for longer than 10 hours on any one night.
- (10) A night restriction shall not be imposed in respect of any day which falls outside the period of three months beginning with the date when the supervision order is made.
- (11) A night restriction shall not be imposed in respect of more than 30 days in all.
- (12) A supervised person who is required by a night restriction to remain at a place may leave it if he is accompanied—
 - (a) by his parent or guardian;
 - (b) by his supervisor; or
 - (c) by some other person specified in the supervision order.
- (13) A night restriction imposed in respect of a period of time beginning in the evening and ending in the morning shall be treated as imposed only in respect of the day upon which the period begins.

Requirements as to mental treatment

- 12B (1) Where a court which proposes to make a supervision order is satisfied, on the evidence of a medical practitioner approved for the purposes of section 12 of the Mental Health Act 1983, that the mental condition of a supervised person is such as requires and may be susceptible to treatment but is not such as to warrant his detention in pursuance of a hospital order under Part III of that Act, the court may include in the supervision order a requirement that the supervised person shall, for a period specified in the order, submit to treatment of one of the following descriptions so specified, that is to say—
- (a) treatment by or under the direction of a fully registered medical practitioner specified in the order;
 - (b) treatment as a non-resident at a place specified in the order; or
 - (c) treatment as a resident patient in a hospital or mental nursing home within the meaning of the said Act of 1983, but not a special hospital within the meaning of that Act.
- (2) A requirement shall not be included in a supervision order in pursuance of subsection (1) above—
- (a) in any case, unless the court is satisfied that arrangements have been or can be made for the treatment in question and, in the case of treatment as a resident patient, for the reception of the patient;
 - (b) in the case of an order made or to be made in respect of a person who has attained the age of 14, unless he consents to its inclusion;
- and a requirement so included shall not in any case continue in force after the supervised person becomes 18.

Requirements as to education

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- (1) Subject to subsection (3) below, a supervision order to which section 12A(1) of this Act applies may require a supervised person, if he is of compulsory school age, to comply, for as long as he is of that age and the order remains in force, with such arrangements for his education as may from time to time be made by his parent, being arrangements for the time being approved by the local education authority.
- (2) The court shall not include such a requirement in a supervision order unless it has consulted the local education authority with regard to its proposal to include the requirement and is satisfied that in the view of the local education authority arrangements exist for the child or young person to whom the supervision order will relate to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational need he may have.
- (3) Expressions used in subsection (1) above and in the Education Act 1944 have the same meaning there as in that Act.
- (4) The court may not include a requirement under subsection (1) above unless it has first consulted the supervisor as to the offender's circumstances and, having regard to the circumstances of the case, it considers the requirement necessary for securing the good conduct of the supervised person or for preventing a repetition by him of the same offence or the commission of other offences.

Duty of court to state in certain cases that requirement in place of custodial sentence

12D (1) Where—

- (a) in pursuance of section 12A(3)(a) of this Act a court includes a requirement in a supervision order directing the supervised person to participate in specified activities; and
- (b) it would have imposed a custodial sentence if it had not made a supervision order including such a requirement,

it shall state in open court—

- (i) that it is making the order instead of a custodial sentence;
 - (ii) that it is satisfied that—
 - (a) the offender has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to any non-custodial penalty other than a supervision order including such a requirement; or
 - (b) only a supervision order including such a requirement or a custodial sentence would be adequate to protect the public from serious harm from him; or
 - (c) the offence for which he has been convicted or found guilty was so serious that a non-custodial sentence for it other than a supervision order including such a requirement could not be justified; and
 - (iii) why it is so satisfied.
- (2) Where the Crown Court makes such a statement, it shall certify in the supervision order that it has made such a statement.
 - (3) Where a magistrates' court makes such a statement, it shall certify in the supervision order that it has made such a statement and shall cause the statement to be entered in the register.

PART II

AMENDMENTS CONSEQUENTIAL ON SUBSTITUTION OF SECTIONS SET OUT IN PART I FOR SECTION 12

The amendments of the Children and Young Persons Act 1969 mentioned in section 128(2) above are—

- (a) the substitution of references to section 12A(3) for the references to section 12(3C) in section 15(1), section 18(4) and section 19(1)(b) and (13);
- (b) the substitution of references to section 12B(1) for the references to section 12(4) in section 15(1) and (5) and section 16(6)(c) and (7); and
- (c) the insertion of “, 12A, 12B or 12C” after “section 12” in section 15(1)(a) and section 16(5)(b) and (c) and (6)(a).

PART III

AMENDMENTS OF SECTION 15

1 The following subsection shall be substituted for subsection (2A)—

“(2A) If while a supervision order made under section 7(7) of this Act or made by a court on discharging a care order made under that subsection is in force in respect of a person who has not attained the age of 18 it is proved to the satisfaction of a juvenile court, on the application of the supervisor, that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12, 12A, 12C or 18(2)(b) of this Act, the court—

- (a) may order him to pay a fine of an amount not exceeding £100; or
- (b) subject to section 16A(1) of this Act, may make an attendance centre order in respect of him,

whether or not it also make an order under subsection (1) of this section.”.

2 In subsection (3), for “12(1) or (2)” there shall be substituted “12, 12A, 12B or 12C”.

3 The following subsections shall be substituted for subsection (4)—

“(4) If while a supervision order made under section 7(7) of this Act or made by a court on discharging a care order made under that section is in force in respect of a person who has attained the age of 18 it is proved to the satisfaction of a magistrates' court (not being a juvenile court), on the application of the supervisor, that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12, 12A, 12C or 18(2)(b) of this Act, the court—

- (a) whether or not it also makes an order under subsection (3) of this section, may order him to pay a fine of an amount not exceeding £100 or, subject to section 16A(1) of this Act, may make an attendance centre order in respect of him;
- (b) if it also discharges the supervision order, may make an order imposing on him any punishment other than a sentence of detention in a young offender institution which it could have imposed on him if it had then had power to try him for the offence in consequence

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- of which the supervision order was made and had convicted him in the exercise of that power;
- and in a case where the offence in question is of a kind which the court has no power to try or has no power to try without appropriate consents—
- (i) the punishment imposed by virtue of paragraph (b) of this subsection shall not exceed that which any court having power to try such an offence could have imposed in respect of it; and
 - (ii) if the punishment imposed is a fine, it shall not in any event exceed £2,000.
- (4A) If while a supervision order is in force in respect of a person it is proved to the court under subsection (2A) or (4) above that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12A(3)(a) of this Act directing the supervised person to participate in specified activities, the court may, if it also discharges the supervision order, make an order imposing on him any sentence which it could have imposed on him if it had then had power to try him for the offence in consequence of which the supervision order was made and had convicted him, or found him guilty, in the exercise of that power.
- (4B) In a case where the offence in question is of a kind which the court has no power to try or has no power to try without appropriate consents, the sentence imposed shall not exceed that which any court having power to try such an offence could have imposed in respect of it and shall not in any event exceed a custodial sentence for a term of six months and a fine—
- (a) if the offender has not attained the age of 18, or £400; and
 - (b) if he has attained that age, of £2,000.
- (4C) A court may not make an order by virtue of subsection (4A) of this section unless the court which made the supervision order made a statement under section 12D(1) of this Act.
- (4D) For the purposes of subsection (4C) above a certificate under section 12D of this Act shall be evidence of the making of the statement to which it relates.”.

PART IV

SECTION INSERTED AFTER SECTION 16

“16A Application of sections 17 to 19 of Criminal Justice Act 1982

- (1) The provisions of section 17 of the Criminal Justice Act 1982 (attendance centre orders) shall apply for the purposes of section 15(2A)(b) and (4)(a) of this Act but as if—
 - (a) in subsection (1), for the words from “has power” to “probation order” there were substituted the words “considers it appropriate to make an attendance centre order in respect of any person in pursuance of section 15(2A) or (4) of the Children and Young Persons Act 1969”;
 - (b) for references to an offender there were substituted references to a supervised person; and
 - (c) subsection (13) were omitted.

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- (2) Sections 18 and 19 of Criminal Justice Act 1982 (discharge and variation of attendance centre order and breach of attendance centre orders or attendance centre rules) shall also apply for the purposes of each of those paragraphs but as if—
- (a) for the references to an offender there were substituted references to the person in respect of whom the attendance centre order has been made; and
 - (b) there were omitted—
 - (i) from subsections (3) and (5) of section 19, the words “, for the offence in respect of which the order was made,” and “for that offence”; and
 - (ii) from subsection (6), the words “for an offence”.