

SCHEDULES

SCHEDULE 3

Sections 35 and 36.

SUPERVISION ORDERS

PART I

GENERAL

Meaning of “responsible person”

1 In this Schedule, “the responsible person”, in relation to a supervised child, means—

- (a) any person who has parental responsibility for the child; and
- (b) any other person with whom the child is living.

Power of supervisor to give directions to supervised child

2 (1) A supervision order may require the supervised child to comply with any directions given from time to time by the supervisor which require 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 and on a day or days so specified;
- (c) to participate in activities specified in the directions on a day or days so specified.

(2) It shall be for the supervisor to decide whether, and to what extent, he exercises his power to give directions and to decide the form of any directions which he gives.

(3) Sub-paragraph (1) does not confer on a supervisor power to give directions in respect of any medical or psychiatric examination or treatment (which are matters dealt with in paragraphs 4 and 5).

Imposition of obligations on responsible person

3 (1) With the consent of any responsible person, a supervision order may include a requirement—

- (a) that he take all reasonable steps to ensure that the supervised child complies with any direction given by the supervisor under paragraph 2;
- (b) that he take all reasonable steps to ensure that the supervised child complies with any requirement included in the order under paragraph 4 or 5;

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- (c) that he comply with any directions given by the supervisor requiring him to attend at a place specified in the directions for the purpose of taking part in activities so specified.
- (2) A direction given under sub-paragraph (1)(c) may specify the time at which the responsible person is to attend and whether or not the supervised child is required to attend with him.
- (3) A supervision order may require any person who is a responsible person in relation to the supervised child to keep the supervisor informed of his address, if it differs from the child's.

Psychiatric and medical examinations

- 4 (1) A supervision order may require the supervised child—
 - (a) to submit to a medical or psychiatric examination; or
 - (b) to submit to any such examination from time to time as directed by the supervisor.
- (2) Any such examination shall be required to be conducted—
 - (a) by, or under the direction of, such registered medical practitioner as may be specified in the order;
 - (b) at a place specified in the order and at which the supervised child is to attend as a non-resident patient; or
 - (c) at—
 - (i) a health service hospital; or
 - (ii) in the case of a psychiatric examination, a hospital or mental nursing home,
 at which the supervised child is, or is to attend as, a resident patient.
- (3) A requirement of a kind mentioned in sub-paragraph (2)(c) shall not be included unless the court is satisfied, on the evidence of a registered medical practitioner, that—
 - (a) the child may be suffering from a physical or mental condition that requires, and may be susceptible to, treatment; and
 - (b) a period as a resident patient is necessary if the examination is to be carried out properly.
- (4) No court shall include a requirement under this paragraph in a supervision order unless it is satisfied that—
 - (a) where the child has sufficient understanding to make an informed decision, he consents to its inclusion; and
 - (b) satisfactory arrangements have been, or can be, made for the examination.

Psychiatric and medical treatment

- 5 (1) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a registered medical practitioner approved for the purposes of section 12 of the Mental Health Act 1983, that the mental condition of the supervised child—
 - (a) is such as requires, and may be susceptible to, treatment; but
 - (b) is not such as to warrant his detention in pursuance of a hospital order under Part III of that Act,

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the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.

- (2) The treatment specified in accordance with sub-paragraph (1) must be—
 - (a) by, or under the direction of, such registered medical practitioner as may be specified in the order;
 - (b) as a non-resident patient at such a place as may be so specified; or
 - (c) as a resident patient in a hospital or mental nursing home.
- (3) Where a court which proposes to make or vary a supervision order is satisfied, on the evidence of a registered medical practitioner, that the physical condition of the supervised child is such as requires, and may be susceptible to, treatment, the court may include in the order a requirement that the supervised child shall, for a period specified in the order, submit to such treatment as is so specified.
- (4) The treatment specified in accordance with sub-paragraph (3) must be—
 - (a) by, or under the direction of, such registered medical practitioner as may be specified in the order;
 - (b) as a non-resident patient at such place as may be so specified; or
 - (c) as a resident patient in a health service hospital.
- (5) No court shall include a requirement under this paragraph in a supervision order unless it is satisfied—
 - (a) where the child has sufficient understanding to make an informed decision, that he consents to its inclusion; and
 - (b) that satisfactory arrangements have been, or can be, made for the treatment.
- (6) If a medical practitioner by whom or under whose direction a supervised person is being treated in pursuance of a requirement included in a supervision order by virtue of this paragraph is unwilling to continue to treat or direct the treatment of the supervised child or is of the opinion that—
 - (a) the treatment should be continued beyond the period specified in the order;
 - (b) the supervised child needs different treatment;
 - (c) he is not susceptible to treatment; or
 - (d) he does not require further treatment,the practitioner shall make a report in writing to that effect to the supervisor.
- (7) On receiving a report under this paragraph the supervisor shall refer it to the court, and on such a reference the court may make an order cancelling or varying the requirement.

PART II

MISCELLANEOUS

Life of supervision order

- 6 (1) Subject to sub-paragraph (2) and section 91, a supervision order shall cease to have effect at the end of the period of one year beginning with the date on which it was made.

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- (2) A supervision order shall also cease to have effect if an event mentioned in section 25(1)(a) or (b) of the Child Abduction and Custody Act 1985 (termination of existing orders) occurs with respect to the child.
- (3) Where the supervisor applies to the court to extend, or further extend, a supervision order the court may extend the order for such period as it may specify.
- (4) A supervision order may not be extended so as to run beyond the end of the period of three years beginning with the date on which it was made.

Limited life of directions

- 7 (1) The total number of days in respect of which a supervised child or (as the case may be) responsible person may be required to comply with directions given under paragraph 2 or 3 shall not exceed 90 or such lesser number (if any) as the supervision order may specify.
- (2) For the purpose of calculating that total number of days, the supervisor may disregard any day in respect of which directions previously given in pursuance of the order were not complied with.

Information to be given to supervisor etc.

- 8 (1) A supervision order may require the supervised child—
 - (a) to keep the supervisor informed of any change in his address; and
 - (b) to allow the supervisor to visit him at the place where he is living.
- (2) The responsible person in relation to any child with respect to whom a supervision order is made shall—
 - (a) if asked by the supervisor, inform him of the child’s address (if it is known to him); and
 - (b) if he is living with the child, allow the supervisor reasonable contact with the child.

Selection of supervisor

- 9 (1) A supervision order shall not designate a local authority as the supervisor unless—
 - (a) the authority agree; or
 - (b) the supervised child lives or will live within their area.
- (2) A court shall not place a child under the supervision of a probation officer unless—
 - (a) the appropriate authority so request; and
 - (b) a probation officer is already exercising or has exercised, in relation to another member of the household to which the child belongs, duties imposed on probation officers—
 - (i) by paragraph 8 of Schedule 3 to the Powers of Criminal Courts Act 1973; or
 - (ii) by rules under paragraph 18(1)(b) of that Schedule.
- (3) In sub-paragraph (2) “the appropriate authority” means the local authority appearing to the court to be the authority in whose area the supervised child lives or will live.

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- (4) Where a supervision order places a person under the supervision of a probation officer, the officer shall be selected in accordance with arrangements made by the probation committee for the area in question.
- (5) If the selected probation officer is unable to carry out his duties, or dies, another probation officer shall be selected in the same manner.

Effect of supervision order on earlier orders

- 10 The making of a supervision order with respect to any child brings to an end any earlier care or supervision order which—
- (a) was made with respect to that child; and
 - (b) would otherwise continue in force.

Local authority functions and expenditure

- 11 (1) The Secretary of State may make regulations with respect to the exercise by a local authority of their functions where a child has been placed under their supervision by a supervision order.
- (2) Where a supervision order requires compliance with directions given by virtue of this section, any expenditure incurred by the supervisor for the purposes of the directions shall be defrayed by the local authority designated in the order.

PART III

EDUCATION SUPERVISION ORDERS

Effect of orders

- 12 (1) Where an education supervision order is in force with respect to a child, it shall be the duty of the supervisor—
- (a) to advise, assist and befriend, and give directions to—
 - (i) the supervised child; and
 - (ii) his parents,in such a way as will, in the opinion of the supervisor, secure that he is properly educated;
 - (b) where any such directions given to—
 - (i) the supervised child; or
 - (ii) a parent of his,have not been complied with, to consider what further steps to take in the exercise of the supervisor's powers under this Act.
- (2) Before giving any directions under sub-paragraph (1) the supervisor shall, so far as is reasonably practicable, ascertain the wishes and feelings of—
- (a) the child; and
 - (b) his parents,
- including, in particular, their wishes as to the place at which the child should be educated.

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- (3) When settling the terms of any such directions, the supervisor shall give due consideration—
- (a) having regard to the child’s age and understanding, to such wishes and feelings of his as the supervisor has been able to ascertain; and
 - (b) to such wishes and feelings of the child’s parents as he has been able to ascertain.
- (4) Directions may be given under this paragraph at any time while the education supervision order is in force.
- 13 (1) Where an education supervision order is in force with respect to a child, the duties of the child’s parents under sections 36 and 39 of the Education Act 1944 (duty to secure education of children and to secure regular attendance of registered pupils) shall be superseded by their duty to comply with any directions in force under the education supervision order.
- (2) Where an education supervision order is made with respect to a child—
- (a) any school attendance order—
 - (i) made under section 37 of the Act of 1944 with respect to the child; and
 - (ii) in force immediately before the making of the education supervision order,
 shall cease to have effect; and
 - (b) while the education supervision order remains in force, the following provisions shall not apply with respect to the child—
 - (i) section 37 of that Act (school attendance orders);
 - (ii) section 76 of that Act (pupils to be educated in accordance with wishes of their parents);
 - (iii) sections 6 and 7 of the Education Act 1980 (parental preference and appeals against admission decisions);
 - (c) a supervision order made with respect to the child in criminal proceedings, while the education supervision order is in force, may not include an education requirement of the kind which could otherwise be included under section 12C of the Children and Young Persons Act 1969;
 - (d) any education requirement of a kind mentioned in paragraph (c), which was in force with respect to the child immediately before the making of the education supervision order, shall cease to have effect.

Effect where child also subject to supervision order

- 14 (1) This paragraph applies where an education supervision order and a supervision order, or order under section 7(7)(b) of the Children and Young Persons Act 1969, are in force at the same time with respect to the same child.
- (2) Any failure to comply with a direction given by the supervisor under the education supervision order shall be disregarded if it would not have been reasonably practicable to comply with it without failing to comply with a direction given under the other order.

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Duration of orders

- 15 (1) An education supervision order shall have effect for a period of one year, beginning with the date on which it is made.
- (2) An education supervision order shall not expire if, before it would otherwise have expired, the court has (on the application of the authority in whose favour the order was made) extended the period during which it is in force.
- (3) Such an application may not be made earlier than three months before the date on which the order would otherwise expire.
- (4) The period during which an education supervision order is in force may be extended under sub-paragraph (2) on more than one occasion.
- (5) No one extension may be for a period of more than three years.
- (6) An education supervision order shall cease to have effect on—
- (a) the child's ceasing to be of compulsory school age; or
 - (b) the making of a care order with respect to the child;
- and sub-paragraphs (1) to (4) are subject to this sub-paragraph.

Information to be given to supervisor etc.

- 16 (1) An education supervision order may require the child—
- (a) to keep the supervisor informed of any change in his address; and
 - (b) to allow the supervisor to visit him at the place where he is living.
- (2) A person who is the parent of a child with respect to whom an education supervision order has been made shall—
- (a) if asked by the supervisor, inform him of the child's address (if it is known to him); and
 - (b) if he is living with the child, allow the supervisor reasonable contact with the child.

Discharge of orders

- 17 (1) The court may discharge any education supervision order on the application of—
- (a) the child concerned;
 - (b) a parent of his; or
 - (c) the local education authority concerned.
- (2) On discharging an education supervision order, the court may direct the local authority within whose area the child lives, or will live, to investigate the circumstances of the child.

Offences

- 18 (1) If a parent of a child with respect to whom an education supervision order is in force persistently fails to comply with a direction given under the order he shall be guilty of an offence.
- (2) It shall be a defence for any person charged with such an offence to prove that—
- (a) he took all reasonable steps to ensure that the direction was complied with;

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- (b) the direction was unreasonable; or
- (c) he had complied with—
 - (i) a requirement included in a supervision order made with respect to the child; or
 - (ii) directions given under such a requirement,
 and that it was not reasonably practicable to comply both with the direction and with the requirement or directions mentioned in this paragraph.
- (3) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Persistent failure of child to comply with directions

- 19 (1) Where a child with respect to whom an education supervision order is in force persistently fails to comply with any direction given under the order, the local education authority concerned shall notify the appropriate local authority.
- (2) Where a local authority have been notified under sub-paragraph (1) they shall investigate the circumstances of the child.
- (3) In this paragraph “the appropriate local authority” has the same meaning as in section 36.

Miscellaneous

- 20 The Secretary of State may by regulations make provision modifying, or displacing, the provisions of any enactment about education in relation to any child with respect to whom an education supervision order is in force to such extent as appears to the Secretary of State to be necessary or expedient in consequence of the provision made by this Act with respect to such orders.

Interpretation

- 21 In this Part of this Schedule “parent” has the same meaning as in the Education Act 1944 (as amended by Schedule 13).