

SCHEDULES

SCHEDULE 12

MINOR AMENDMENTS

The Children and Young Persons Act 1969 (c. 54)

20 In section 5 of the Children and Young Persons Act 1969 (restrictions on criminal proceedings for offences by young persons), in subsection (2), for the words “section 1 of this Act” there shall be substituted “Part IV of the Children Act 1989”.

21 After section 7(7) of that Act (alteration in treatment of young offenders, etc.) there shall be inserted—

“(7B) An order under subsection (7)(c) of this section shall not require a person to enter into a recognisance—

(a) for an amount exceeding £1,000; or

(b) for a period exceeding—

(i) three years; or

(ii) where the young person concerned will attain the age of eighteen in a period shorter than three years, that shorter period.

(7C) Section 120 of the Magistrates' Courts Act 1980 shall apply to a recognisance entered into in pursuance of an order under subsection (7)(c) of this section as it applies to a recognisance to keep the peace.”

22 In section 12A of that Act (young offenders) for subsections (1) and (2) there shall be substituted—

“(1) This subsection applies to any supervision order made under section 7(7) of this Act unless it requires the supervised person to comply with directions given by the supervisor under section 12(2) of this Act.”

23 After that section there shall be inserted—

“12AA Requirement for young offender to live in local authority accommodation

(1) Where the conditions mentioned in subsection (6) of this section are satisfied, a supervision order may impose a requirement (“a residence requirement”) that a child or young person shall live for a specified period in local authority accommodation.

(2) A residence requirement shall designate the local authority who are to receive the child or young person and that authority shall be the authority in whose area the child or young person resides.

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- (3) The court shall not impose a residence requirement without first consulting the designated authority.
- (4) A residence requirement may stipulate that the child or young person shall not live with a named person.
- (5) The maximum period which may be specified in a residence requirement is six months.
- (6) The conditions are that—
- (a) a supervision order has previously been made in respect of the child or young person;
 - (b) that order imposed—
 - (i) a requirement under section 12A(3) of this Act; or
 - (ii) a residence requirement;
 - (c) he is found guilty of an offence which—
 - (i) was committed while that order was in force;
 - (ii) if it had been committed by a person over the age of twenty-one, would have been punishable with imprisonment; and
 - (iii) in the opinion of the court is serious; and
 - (d) the court is satisfied that the behaviour which constituted the offence was due, to a significant extent, to the circumstances in which he was living,
- except that the condition in paragraph (d) of this subsection does not apply where the condition in paragraph (b)(ii) is satisfied.
- (7) For the purposes of satisfying itself as mentioned in subsection (6)(d) of this section, the court shall obtain a social inquiry report which makes particular reference to the circumstances in which the child or young person was living.
- (8) Subsection (7) of this section does not apply if the court already has before it a social inquiry report which contains sufficient information about the circumstances in which the child or young person was living.
- (9) A court shall not include a residence requirement in respect of a child or young person who is not legally represented at the relevant time in that court unless—
- (a) he has applied for legal aid for the purposes of the proceedings and the application was refused on the ground that it did not appear that his resources were such that he required assistance; or
 - (b) he has been informed of his right to apply for legal aid for the purposes of the proceedings and has had the opportunity to do so, but nevertheless refused or failed to apply.
- (10) In subsection (9) of this section—
- (a) “the relevant time” means the time when the court is considering whether or not to impose the requirement; and
 - (b) “the proceedings” means—
 - (i) the whole proceedings; or
 - (ii) the part of the proceedings relating to the imposition of the requirement.

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- (11) A supervision order imposing a residence requirement may also impose any of the requirements mentioned in sections 12, 12A, 12B or 12C of this Act.
- (12) In this section “social inquiry report” has the same meaning as in section 2 of the Criminal Justice Act 1982.”
- 24 (1) In section 15 of that Act (variation and discharge of supervision orders), in subsections (1)(a), (2A), (3)(e) and (4) after the word “12A”, in each place where it occurs, there shall be inserted “12AA”.
- (2) In subsection (4) of that section for the words “(not being a juvenile court)” there shall be substituted “other than a juvenile court”.
- 25 (1) In section 16 of that Act (provisions supplementary to section 15), in subsection (3) for the words “either direct” to the end there shall be substituted—
- “(i) direct that he be released forthwith; or
(ii) remand him.”
- (2) In subsection (4) of that section—
- (a) in paragraph (a) for the words “an interim order made by virtue of” there shall be substituted “a remand under”;
- (b) in paragraph (b) for the words “makes an interim order in respect of” there shall be substituted “remands”, and
- (c) for the words “make an interim order in respect of” there shall be substituted “remand”.
- (3) In subsections (5)(b) and (c) and (6)(a) after the word “12A”, in each place where it occurs, there shall be inserted “12AA”.
- 26 For section 23 of that Act (remand to care of local authorities etc.) there shall be substituted—

“23 Remand to local authority accommodation, committal of young persons of unruly character, etc

- (1) Where a court—
- (a) remands or commits for trial a child charged with homicide or remands a child convicted of homicide; or
- (b) remands a young person charged with or convicted of one or more offences or commits him for trial or sentence,
- and he is not released on bail, then, unless he is a young person who is certified by the court to be of unruly character, the court shall remand him to local authority accommodation.
- (2) A court remanding a person to local authority accommodation shall designate the authority who are to receive him and that authority shall be the authority in whose area it appears to the court that—
- (a) he resides; or
- (b) the offence or one of the offences was committed.
- (3) Where a person is remanded to local authority accommodation, it shall be lawful for any person acting on behalf of the designated authority to detain him.

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- (4) The court shall not certify a young person as being of unruly character unless—
- (a) he cannot safely be remanded to local authority accommodation; and
 - (b) the conditions prescribed by order made by the Secretary of State under this subsection are satisfied in relation to him.
- (5) Where the court certifies that a young person is of unruly character, it shall commit him—
- (a) to a remand centre, if it has been notified that such a centre is available for the reception from the court of such persons; and
 - (b) to a prison, if it has not been so notified.
- (6) Where a young person is remanded to local authority accommodation, a court may, on the application of the designated authority, certify him to be of unruly character in accordance with subsection (4) of this section (and on so doing he shall cease to be remanded to local authority accommodation and subsection (5) of this section shall apply).
- (7) For the purposes of subsection (6) of this section,
“a court” means—
- (a) the court which remanded the young person; or
 - (b) any magistrates' court having jurisdiction in the place where that person is for the time being,
- and in this section “court” and “magistrates' court” include a justice.
- (8) This section has effect subject to—
- (a) section 37 of the Magistrates' Courts Act 1980 (committal to the Crown Court with a view to a sentence of detention in a young offender institution); and
 - (b) section 128(7) of that Act (remands to the custody of a constable for periods of not more than three days),
- but section 128(7) shall have effect in relation to a child or young person as if for the reference to three clear days there were substituted a reference to twenty-four hours.”
- 27 (1) In section 32 of that Act (detention of absentees), for subsection (1A) there shall be substituted the following subsections—
- “(1A) If a child or young person is absent, without the consent of the responsible person—
- (a) from a place of safety to which he has been taken under section 16(3) of this Act; or
 - (b) from local authority accommodation—
 - (i) in which he is required to live under section 12AA of this Act; or
 - (ii) to which he has been remanded under section 23(1) of this Act,
he may be arrested by a constable anywhere in the United Kingdom or Channel Islands without a warrant.
- (1B) A person so arrested shall be conducted to—
- (a) the place of safety;

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- (b) the local authority accommodation; or
- (c) such other place as the responsible person may direct,
at the responsible person's expense.

(1C) In this section “the responsible person” means the person who made the arrangements under section 16(3) of this Act or, as the case may be, the authority designated under section 12AA or 23 of this Act.”

- (2) In subsection (2B) of that section for the words “person referred to in subsection (1A) (a) or (b) (as the case may be) of this section” there shall be substituted “responsible person”.

28 In section 34(1) of that Act (transitional modifications of Part I for persons of specified ages)—

- (a) in paragraph (a), for the words “13(2) or 28(4) or (5)” there shall be substituted “or 13(2)”; and
- (b) in paragraph (e), for the words “section 23(2) or (3)” there shall be substituted “section 23(4) to (6)”.

29 In section 70(1) of that Act (interpretation)—

- (a) after the definition of “local authority” there shall be inserted—

““local authority accommodation” means accommodation provided by or on behalf of a local authority (within the meaning of the Children Act 1989)”; and

- (b) in the definition of “reside” for “12(4) and (5)” there shall be substituted “12B(1) and (2)”.

30 In section 73 of that Act (extent, etc.)—

- (a) in subsection (4)(a) for “32(1), (3) and (4)” there shall be substituted “32(1) to (1C) and (2A) to (4)”; and
- (b) in subsection (6) for “32(1), (1A)” there shall be substituted “32(1) to (1C)”.