

Status: Point in time view as at 25/08/2000.

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SCHEDULES

SCHEDULE 7

Section 65.

BREACH, REVOCATION AND AMENDMENT OF SUPERVISION ORDERS

Meaning of “relevant court”, etc.

- 1 (1) In this Schedule, “relevant court”, in relation to a supervision order, means—
- (a) where the offender is under the age of 18, a youth court acting for the petty sessions area for the time being named in the order in pursuance of section 63(6) of this Act;
 - (b) where the offender has attained that age, a magistrates’ court other than a youth court, being a magistrates’ court acting for the petty sessions area for the time being so named.
- (2) If an application to a youth court is made in pursuance of this Schedule and while it is pending the offender to whom it relates attains the age of 18, the youth court shall deal with the application as if he had not attained that age.

Breach of requirement of supervision order

- 2 (1) This paragraph applies if while a supervision order is in force in respect of an offender it is proved to the satisfaction of a relevant court, on the application of the supervisor, that the offender has failed to comply with any requirement included in the supervision order in pursuance of paragraph 1, 2, 3, 5 or 7 of Schedule 6 to this Act or section 63(6)(b) of this Act.
- (2) Where this paragraph applies, the court—
- (a) whether or not it also makes an order under paragraph 5(1) below (revocation or amendment of supervision order)—
 - (i) may order the offender to pay a fine of an amount not exceeding £1,000; or
 - (ii) subject to paragraph 3 below, may make a curfew order in respect of him; or
 - (iii) subject to paragraph 4 below, may make an attendance centre order in respect of him; or
 - (b) if the supervision order was made by a magistrates’ court, may revoke the supervision order and deal with the offender, for the offence in respect of which the order was made, in any way in which he could have been dealt with for that offence by the court which made the order if the order had not been made; or
 - (c) if the supervision order was made by the Crown Court, may commit him in custody or release him on bail until he can be brought or appear before the Crown Court.

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- (3) Where a court deals with an offender under sub-paragraph (2)(c) above, it shall send to the Crown Court a certificate signed by a justice of the peace giving—
- (a) particulars of the offender's failure to comply with the requirement in question; and
 - (b) such other particulars of the case as may be desirable;
- and a certificate purporting to be so signed shall be admissible as evidence of the failure before the Crown Court.
- (4) Where—
- (a) by virtue of sub-paragraph (2)(c) above the offender is brought or appears before the Crown Court, and
 - (b) it is proved to the satisfaction of the court that he has failed to comply with the requirement in question,
- that court may deal with him, for the offence in respect of which the supervision order was made, in any way in which it could have dealt with him for that offence if it had not made the order.
- (5) Where the Crown Court deals with an offender under sub-paragraph (4) above, it shall revoke the supervision order if it is still in force.
- (6) A fine imposed under this paragraph shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (7) In dealing with an offender under this paragraph, a court shall take into account the extent to which he has complied with the requirements of the supervision order.
- (8) Where a supervision order has been made on appeal, for the purposes of this paragraph it shall be deemed—
- (a) if it was made on an appeal brought from a magistrates' court, to have been made by that magistrates' court;
 - (b) if it was made on an appeal brought from the Crown Court or from the criminal division of the Court of Appeal, to have been made by the Crown Court;
- and, in relation to a supervision order made on appeal, sub-paragraph (2)(b) above shall have effect as if the words "if the order had not been made" were omitted and sub-paragraph (4) above shall have effect as if the words "if it had not made the order" were omitted.
- (9) This paragraph has effect subject to paragraph 7 below.

Curfew orders imposed for breach of supervision order

- 3 (1) Section 37(1) of this Act (curfew orders) shall apply for the purposes of paragraph 2(2)(a)(ii) above as if for the words from the beginning to "make" there were substituted "Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(ii) of Schedule 7 to this Act, it may make".
- (2) The following provisions of this Act, namely—
- (a) section 37(3) to (12), and
 - (b) so far as applicable, sections 38 and 40 and Schedule 3 so far as relating to curfew orders,

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have effect in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above as they have effect in relation to any other curfew order, subject to sub-paragraphs (4) and (5) below.

- (3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to a curfew order made by virtue of paragraph 2(2)(a)(ii) above.
- (4) Subsections (4) and (9) of section 37 of this Act shall each have effect in relation to such a curfew order as if for the words “on conviction” there were substituted “on the date when his failure to comply with the supervision order is proved to the court”.
- (5) Schedule 3 to this Act (breach, revocation and amendment of orders) shall have effect in relation to such a curfew order as if—
 - (a) the power conferred on the court by each of paragraphs 4(1)(d) and 10(3)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the supervision order, in any way in which a relevant court could deal with him for that failure if it had just been proved to the satisfaction of that court;
 - (b) the reference in paragraph 10(1)(b) to the offence in respect of which the order was made were a reference to the failure to comply in respect of which the curfew order was made; and
 - (c) the power conferred on the Crown Court by paragraph 11(2)(b) to deal with the offender for the offence in respect of which the order was made were a power to deal with the offender, for his failure to comply with the supervision order, in any way in which a relevant court (if the supervision order was made by a magistrates’ court) or the Crown Court (if the supervision order was made by the Crown Court) could deal with him for that failure if it had just been proved to its satisfaction.
- (6) For the purposes of the provisions mentioned in paragraphs (a) and (c) of sub-paragraph (5) above, as applied by that sub-paragraph, if the supervision order is no longer in force the relevant court’s powers shall be determined on the assumption that it is still in force.

Attendance centre orders imposed for breach of supervision order

- 4 (1) Section 60(1) of this Act (attendance centre orders) shall apply for the purposes of paragraph 2(2)(a)(iii) above as if for the words from the beginning to “the court may,” there were substituted “Where a court considers it appropriate to make an order in respect of any person in pursuance of paragraph 2(2)(a)(iii) of Schedule 7 to this Act, the court may,”.
- (2) The following provisions of this Act, namely—
 - (a) subsections (3) to (11) of section 60, and
 - (b) so far as applicable, Schedule 5,have effect in relation to an attendance centre order made by virtue of paragraph 2(2)(a)(iii) above as they have effect in relation to any other attendance centre order, subject to sub-paragraph (4) below.
- (3) Sections 35 and 36 of this Act (restrictions and procedural requirements for community sentences) do not apply in relation to an attendance centre order made by virtue of paragraph 2(2)(a)(iii) above.

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- (4) Schedule 5 to this Act (breach, revocation and amendment of attendance centre orders) shall have effect in relation to such an attendance centre order as if there were omitted—
- (a) from each of paragraphs 2(1)(b) and 4(3) the words “, for the offence in respect of which the order was made,” and “for that offence”; and
 - (b) from paragraphs 2(6) and 4(4) the words “for an offence”.

Revocation and amendment of supervision order

- 5 (1) If while a supervision order is in force in respect of an offender it appears to a relevant court, on the application of the supervisor or the offender, that it is appropriate to make an order under this sub-paragraph, the court may—
- (a) make an order revoking the supervision order; or
 - (b) make an order amending it—
 - (i) by cancelling any requirement included in it in pursuance of Schedule 6 to, or section 63(6)(b) of, this Act; or
 - (ii) by inserting in it (either in addition to or in substitution for any of its provisions) any provision which could have been included in the order if the court had then had power to make it and were exercising the power.
- (2) Sub-paragraph (1) above has effect subject to paragraphs 7 to 9 below.
- (3) The powers of amendment conferred by sub-paragraph (1) above do not include power—
- (a) to insert in the supervision order, after the end of three months beginning with the date when the order was originally made, a requirement in pursuance of paragraph 6 of Schedule 6 to this Act (treatment for mental condition), unless it is in substitution for such a requirement already included in the order; or
 - (b) to insert in the supervision order a requirement in pursuance of paragraph 3(2)(e) of that Schedule (night restrictions) in respect of any day which falls outside the period of three months beginning with the date when the order was originally made.
- (4) Where an application under sub-paragraph (1) above for the revocation of a supervision order is dismissed, no further application for its revocation shall be made under that sub-paragraph by any person during the period of three months beginning with the date of the dismissal except with the consent of a court having jurisdiction to entertain such an application.

Amendment of order on report of medical practitioner

- 6 (1) If a medical practitioner by whom or under whose direction an offender is being treated for his mental condition in pursuance of a requirement included in a supervision order by virtue of paragraph 6 of Schedule 6 to this Act—
- (a) is unwilling to continue to treat or direct the treatment of the offender, or
 - (b) is of the opinion mentioned in sub-paragraph (2) below,
- the practitioner shall make a report in writing to that effect to the supervisor.
- (2) The opinion referred to in sub-paragraph (1) above is—

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- (a) that the treatment of the offender should be continued beyond the period specified in that behalf in the order;
 - (b) that the offender needs different treatment;
 - (c) that the offender is not susceptible to treatment; or
 - (d) that the offender does not require further treatment.
- (3) On receiving a report under sub-paragraph (1) above the supervisor shall refer it to a relevant court; and on such a reference the court may make an order cancelling or varying the requirement.
- (4) Sub-paragraph (3) above has effect subject to paragraphs 7 to 9 below.

Presence of offender in court, remands etc.

- 7
- (1) Where the supervisor makes an application or reference under paragraph 2(1), 5(1) or 6(3) above to a court he may bring the offender before the court; and, subject to sub-paragraph (9) below, a court shall not make an order under paragraph 2, 5(1) or 6(3) above unless the offender is present before the court.
 - (2) Without prejudice to any power to issue a summons or warrant apart from this sub-paragraph, a justice may issue a summons or warrant for the purpose of securing the attendance of an offender before the court to which any application or reference in respect of him is made under paragraph 2(1), 5(1) or 6(3) above.
 - (3) Subsections (3) and (4) of section 55 of the ^{M1}Magistrates' Courts Act 1980 (which among other things restrict the circumstances in which a warrant may be issued) shall apply with the necessary modifications to a warrant under sub-paragraph (2) above as they apply to a warrant under that section, but as if in subsection (3) after the word "summons" there were inserted the words "cannot be served or".
 - (4) Where the offender is arrested in pursuance of a warrant issued by virtue of sub-paragraph (2) above and cannot be brought immediately before the court referred to in that sub-paragraph, the person in whose custody he is—
 - (a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it shall be lawful for him to be detained in pursuance of the arrangements); and
 - (b) shall within that period, unless within it the offender is brought before the court referred to in sub-paragraph (2) above, bring him before a justice;and in paragraph (a) above "place of safety" has the same meaning as in the ^{M2}Children and Young Persons Act 1933.
 - (5) Where an offender is brought before a justice under sub-paragraph (4)(b) above, the justice may—
 - (a) direct that he be released forthwith; or
 - (b) subject to sub-paragraph (7) below, remand him to local authority accommodation.
 - (6) Subject to sub-paragraph (7) below, where an application is made to a youth court under paragraph 5(1) above, the court may remand (or further remand) the offender to local authority accommodation if—
 - (a) a warrant has been issued under sub-paragraph (2) above for the purpose of securing the attendance of the offender before the court; or

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- (b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers under paragraph 5(1) above.
- (7) Where the offender is aged 18 or over at the time when he is brought before a justice under sub-paragraph (4)(b) above, or is aged 18 or over at a time when (apart from this sub-paragraph) a youth court could exercise its powers under sub-paragraph (6) above in respect of him, he shall not be remanded to local authority accommodation but may instead be remanded—
- (a) to a remand centre, if the justice or youth court has been notified that such a centre is available for the reception of persons under this sub-paragraph; or
 - (b) to a prison, if the justice or youth court has not been so notified.
- (8) A justice or court remanding a person to local authority accommodation under this paragraph shall designate, as the authority who are to receive him, the authority named in the supervision order.
- (9) A court may make an order under paragraph 5(1) or 6(3) above in the absence of the offender if the effect of the order is confined to one or more of the following, that is to say—
- (a) revoking the supervision order;
 - (b) cancelling a provision included in the supervision order in pursuance of Schedule 6 to, or section 63(6)(b) of, this Act;
 - (c) reducing the duration of the supervision order or any provision included in it in pursuance of that Schedule;
 - (d) altering in the supervision order the name of any area;
 - (e) changing the supervisor.

Marginal Citations

- M1** 1980 c. 43.
- M2** 1933 c. 12.

Restrictions on court's powers to revoke or amend order

- 8 (1) A youth court shall not—
- (a) exercise its powers under paragraph 5(1) above to make an order—
 - (i) revoking a supervision order, or
 - (ii) inserting in it a requirement authorised by Schedule 6 to this Act, or
 - (iii) varying or cancelling such a requirement,
 except in a case where the court is satisfied that the offender either is unlikely to receive the care or control he needs unless the court makes the order or is likely to receive it notwithstanding the order;
 - (b) exercise its powers to make an order under paragraph 6(3) above except in such a case as is mentioned in paragraph (a) above;
 - (c) exercise its powers under paragraph 5(1) above to make an order inserting a requirement authorised by paragraph 6 of Schedule 6 to this Act in a supervision order which does not already contain such a requirement, unless the court is satisfied as mentioned in paragraph 6(1) of that Schedule on such evidence as is there mentioned.

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(2) For the purposes of this paragraph “care” includes protection and guidance and “control” includes discipline.

- 9 Where the offender has attained the age of 14, then except with his consent a court shall not make an order under paragraph 5(1) or 6(3) above containing provisions—
- (a) which insert in the supervision order a requirement authorised by paragraph 6 of Schedule 6 to this Act; or
 - (b) which alter such a requirement already included in the supervision order otherwise than by removing it or reducing its duration.

Copies of revoking or amending orders

- 10 A court which makes an order amending or revoking a supervision order shall forthwith send a copy of its order—
- (a) to the offender and, if the offender is aged under 14, to his parent or guardian;
 - (b) to the supervisor and any person who has ceased to be the supervisor by virtue of the order;
 - (c) to any local authority who are not entitled by virtue of paragraph (b) above to such a copy and whose area is named in the supervision order in pursuance of section 63(6) of this Act or has ceased to be so named by virtue of the court’s order;
 - (d) where the offender is required by the order, or was required by the supervision order before it was amended or revoked, to reside with an individual or to undergo treatment by or under the direction of an individual or at any place, to the individual or the person in charge of that place; and
 - (e) where a petty sessions area named in the order or revoked order in pursuance of section 63(6) of this Act is not that for which the court acts, to the justices’ chief executive for the petty sessions area so named;
- and, in a case falling within paragraph (e) above, shall also send to the justices’ chief executive in question such documents and information relating to the case as the court considers likely to be of assistance to them.

Appeals

- 11 The offender may appeal to the Crown Court against—
- (a) any order made under paragraph 2(2), 5(1) or 6(3) above by a relevant court, except—
 - (i) an order made or which could have been made in the absence of the offender (by virtue of paragraph 7(9) above); and
 - (ii) an order containing only provisions to which the offender consented in pursuance of paragraph 9 above;
 - (b) the dismissal of an application under paragraph 5(1) above to revoke a supervision order.

Power of parent or guardian to make application on behalf of young person

- 12 (1) Without prejudice to any power apart from this sub-paragraph to bring proceedings on behalf of another person, any power to make an application which is exercisable by a child or young person by virtue of paragraph 5(1) above shall also be exercisable on his behalf by his parent or guardian.

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- (2) In this paragraph “guardian” includes any person who was a guardian of the child or young person in question at the time when any supervision order to which the application relates was originally made.

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