

SCHEDULES

SCHEDULE 3

Section 70.

PROVISIONS SUPPLEMENTARY TO SECTIONS 68 AND 69

PART I

PROVISIONS SUPPLEMENTARY TO SECTION 68

- 1 Section 68(1) above applies whether the information contained in the document was supplied directly or indirectly but, if it was supplied indirectly, only if each person through whom it was supplied was acting under a duty; and applies also where the person compiling the record is himself the person by whom the information is supplied.
- 2 Where—
 - (a) a document setting out the evidence which a person could be expected to give as a witness has been prepared for the purpose of any pending or contemplated proceedings ; and
 - (b) it falls within subsection (1) of section 68 above,
a statement contained in it shall not be given in evidence by virtue of that section without the leave of the court, and the court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interests of justice, having regard—
 - (i) to the circumstances in which leave is sought and in particular to the contents of the statement; and
 - (ii) to any likelihood that the accused will be prejudiced by its admission in the absence of the person who supplied the information on which it is based.
- 3 Where in any proceedings a statement based on information supplied by any person is given in evidence by virtue of section 68 above—
 - (a) any evidence which, if that person had been called as a witness, would have been admissible as relevant to his credibility as a witness shall be admissible for that purpose in those proceedings ;
 - (b) evidence may, with the leave of the court, be given of any matter which, if that person had been called as a witness, could have been put to him in cross-examination as relevant to his credibility as a witness but of which evidence could not have been adduced by the cross-examining party ; and
 - (c) evidence tending to prove that that person, whether before or after supplying the information, made a statement (whether oral or not) which is inconsistent with it shall be admissible for the purpose of showing that he has contradicted himself.
- 4 A statement which is admissible by virtue of section 68 above shall not be capable of corroborating evidence given by the person who supplied the information on which the statement is based.

Status: This is the original version (as it was originally enacted).

- 5 In deciding for the purposes of section 68(2)(a)(i) above whether a person is unfit to attend as a witness the court may act on a certificate purporting to be signed by a registered medical practitioner.
- 6 Any reference in section 68 above or this Part of this Schedule to a person acting under a duty includes a reference to a person acting in the course of any trade, business, profession or other occupation in which he is engaged or employed or for the purposes of any paid or unpaid office held by him.
- 7 In estimating the weight, if any, to be attached to a statement admissible in evidence by virtue of section 68 above regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular—
- (a) to the question whether or not the person who supplied the information from which the record containing the statement was compiled did so contemporaneously with the occurrence or existence of the facts dealt with in that information ; and
 - (b) to the question whether or not that person, or any other person concerned with compiling or keeping the record containing the statement, had any incentive to conceal or misrepresent the facts.

PART II

PROVISIONS SUPPLEMENTARY TO SECTION 69

- 8 In any proceedings where it is desired to give a statement in evidence in accordance with section 69 above, a certificate—
- (a) identifying the document containing the statement and describing the manner in which it was produced ;
 - (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;
 - (c) dealing with any of the matters mentioned in subsection (1) of section 69 above ; and
 - (d) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer,
- shall be evidence of anything stated in it; and for the purposes of this paragraph it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.
- 9 Notwithstanding paragraph 8 above, a court may require oral evidence to be given of anything of which evidence could be given by a certificate under that paragraph.
- 10 Any person who in a certificate tendered under paragraph 8 above in a magistrates' court, the Crown Court or the Court of Appeal makes a statement which he knows to be false or does not believe to be true shall be guilty of an offence and liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both ;
 - (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (as defined in section 74 of the Criminal Justice Act 1982) or to both.

Status: This is the original version (as it was originally enacted).

- 11 In estimating the weight, if any, to be attached to a statement regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular—
- (a) to the question whether or not the information which the information contained in the statement reproduces or is derived from was supplied to the relevant computer, or recorded for the purpose of being supplied to it, contemporaneously with the occurrence or existence of the facts dealt with in that information ; and
 - (b) to the question whether or not any person concerned with the supply of information to that computer, or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent the facts.
- 12 For the purposes of paragraph 11 above information shall be taken to be supplied to a computer whether it is supplied directly,

PART III

PROVISIONS SUPPLEMENTARY TO SECTIONS 68 AND 69

- 13 Where in any proceedings a statement contained in a document is admissible in evidence by virtue of section 68 above or in accordance with section 69 above it may be proved—
- (a) by the production of that document; or
 - (b) (whether or not that document is still in existence) by the production of a copy of that document, or of the material part of it,
- authenticated in such manner as the court may approve.
- 14 For the purpose of deciding whether or not a statement is so admissible the court may draw any reasonable inference—
- (a) from the circumstances in which the statement was made or otherwise came into being ; or
 - (b) from any other circumstances, including the form and contents of the document in which the statement is contained.
- 15 Provision may be made by rules of court for supplementing the provisions of section 68 or 69 above or this Schedule.