

*Status: Point in time view as at 01/09/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Anti-social Behaviour Act 2003, SCHEDULE 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 2

Section 88

#### CURFEW ORDERS AND SUPERVISION ORDERS

##### *Interpretation*

- 1 In this Schedule “the 2000 Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

##### **Commencement Information**

- I1** Sch. 2 para. 1 in force at 30.9.2004 by S.I. 2004/2168, art. 2(a)(iii)

##### *Curfew orders*

- 2 (1) Section 37 of the 2000 Act (curfew orders) is amended as follows.
- (2) Subsection (4) (which limits to three months the duration of a curfew order made in respect of a person aged under 16 on conviction) is omitted.
- (3) For subsection (12) there is substituted—
- “(12) In this Act, “responsible officer”, in relation to an offender subject to a curfew order, means—
- (a) where the offender is also subject to a supervision order, the person who is the supervisor in relation to the supervision order, and
  - (b) in any other case, the person who is responsible for monitoring the offender’s whereabouts during the curfew periods specified in the order.”

##### **Commencement Information**

- I2** Sch. 2 para. 2(1)(3) in force at 30.9.2004 by S.I. 2004/2168, art. 2(a)(iii)
- I3** Sch. 2 para. 2(2) in force at 30.9.2004 for specified purposes by S.I. 2004/2168, art. 3(1)(a)(ii)(2)

##### *Supervision orders*

- 3 After section 64 of the 2000 Act there is inserted—

##### **“64A Supervision orders and curfew orders**

Nothing in this Chapter prevents a court which makes a supervision order in respect of an offender from also making a curfew order in respect of him.”

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#### Commencement Information

**I4** Sch. 2 para. 3 in force at 30.9.2004 by S.I. 2004/2168, art. 2(a)(iii)

- 4 (1) Schedule 6 to the 2000 Act (requirements which may be included in supervision orders) is amended as follows.
- (2) In paragraph 2(5) (total number of days during which offender may be required to comply with directions of supervisor not to exceed 90), for “90” there is substituted “ 180 ”.
- (3) In paragraph 3 (requirements as to activities, reparation, night restrictions etc)—
- (a) sub-paragraph (2)(e) (night restriction) is omitted, and
  - (b) in sub-paragraph (3) (total number of days in respect of which an offender may be subject to requirements imposed by virtue of any of sub-paragraph (2)(a) to (e) not to exceed 90)—
    - (i) for the words “, (d) or (e)” there is substituted “ or (d) ”, and
    - (ii) for “90” there is substituted “ 180 ”.
- (4) Paragraph 4 (night restrictions) is omitted.
- (5) After paragraph 5 there is inserted—

*“Requirement to live for specified period with local authority foster parent*

- 5A (1) Where the conditions mentioned in sub-paragraph (2) below are satisfied, a supervision order may impose a requirement (“a foster parent residence requirement”) that the offender shall live for a specified period with a local authority foster parent.
- (2) The conditions are that—
- (a) the offence is punishable with imprisonment in the case of an offender aged 18 or over;
  - (b) the offence, or the combination of the offence and one or more offences associated with it, was so serious that a custodial sentence would normally be appropriate (or, where the offender is aged 10 or 11, would normally be appropriate if the offender were aged 12 or over); and
  - (c) the court is satisfied that—
    - (i) the behaviour which constituted the offence was due to a significant extent to the circumstances in which the offender was living, and
    - (ii) the imposition of a foster parent residence requirement will assist in his rehabilitation.
- (3) A foster parent residence requirement shall designate the local authority who are to place the offender with a local authority foster parent under section 23(2)(a) of the Children Act 1989, and that authority shall be the authority in whose area the offender resides.
- (4) A court shall not impose a foster parent residence requirement unless—

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- (a) the court has been notified by the Secretary of State that arrangements for implementing such a requirement are available in the area of the designated authority;
  - (b) the notice has not been withdrawn; and
  - (c) the court has consulted the designated authority.
- (5) Subject to paragraph 5(2A) of Schedule 7 to this Act, the maximum period which may be specified in a foster parent residence requirement is twelve months.
- (6) A court shall not impose a foster parent residence requirement in respect of an offender who is not legally represented at the relevant time in that court unless—
  - (a) he was granted a right to representation funded by the Legal Services Commission as part of the Criminal Defence Service for the purposes of the proceedings but the right was withdrawn because of his conduct; or
  - (b) he has been informed of his right to apply for such representation for the purposes of the proceedings and has had opportunity to do so, but nevertheless refused or failed to apply.
- (7) In sub-paragraph (6) above—
  - (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.
- (8) A supervision order imposing a foster parent residence requirement may also impose any of the requirements mentioned in paragraphs 2, 3, 6 and 7 of this Schedule.
- (9) If at any time while a supervision order imposing a foster parent residence requirement is in force, the supervisor notifies the offender—
  - (a) that no suitable local authority foster parent is available, and
  - (b) that the supervisor has applied or proposes to apply under paragraph 5 of Schedule 7 for the variation or revocation of the order,the foster parent residence requirement shall, until the determination of the application, be taken to require the offender to live in local authority accommodation (as defined by section 163 of this Act).
- (10) This paragraph does not affect the power of a local authority to place with a local authority foster parent an offender to whom a local authority residence requirement under paragraph 5 above relates.
- (11) In this paragraph “local authority foster parent” has the same meaning as in the Children Act 1989.”

**Commencement Information**

**I5** Sch. 2 para. 4 in force at 30.9.2004 by S.I. 2004/2168, art. 2(a)(iii)

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### *Consequential amendments*

- 5 In section 21 of the Children Act 1989 (c. 41) (provision of accommodation for children in police protection or detention or on remand, etc.) in subsection (2)(c) (ii) after “2000” there is inserted “ or a foster parent residence requirement under paragraph 5A of that Schedule ”.

#### **Commencement Information**

**I6** Sch. 2 para. 5 in force at 30.9.2004 by S.I. 2004/2168, art. 2(a)(iii)

- 6 (1) Schedule 7 to the 2000 Act (breach, revocation and amendment of supervision orders) is amended as follows.
- (2) In paragraph 2 (breach of requirement of supervision order)—
- (a) in sub-paragraph (1), after “5” there is inserted “, 5A ”,
  - (b) in sub-paragraph (2)(a)(ii) after “subject to” there is inserted “ sub-paragraph (2A) below and ”, and
  - (c) after sub-paragraph (2) there is inserted—
 

“(2A) The court may not make a curfew order under sub-paragraph (2) (a)(ii) above in respect of an offender who is already subject to a curfew order.”
- (3) In paragraph 5 (revocation and amendment of supervision order)—
- (a) after sub-paragraph (2) there is inserted—
 

“(2A) In relation to a supervision order imposing a foster parent residence requirement under paragraph 5A of Schedule 6 to this Act, the power conferred by sub-paragraph (1)(b)(ii) above includes power to extend the period specified in the requirement to a period of not more than 18 months beginning with the day on which the requirement first had effect.”, and
  - (b) sub-paragraph (3)(b) and the word “or” immediately preceding it are omitted.

#### **Commencement Information**

**I7** Sch. 2 para. 6 in force at 30.9.2004 by S.I. 2004/2168, art. 2(a)(iii)

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