

SCHEDULES

SCHEDULE 2

Section 12

BREACH OF INJUNCTIONS: POWERS OF COURT IN RESPECT OF UNDER-18S

PART 1

INTRODUCTORY

Power to make supervision order or detention order

- 1 (1) A youth court, if satisfied beyond reasonable doubt that a person aged under 18 is in breach of a provision of an injunction under section 1 to which he or she is subject, may make in respect of the person—
- (a) a supervision order (see Part 2 of this Schedule), or
 - (b) a detention order (see Part 3 of this Schedule).
- (2) An order under sub-paragraph (1) may be made only on the application of the person who applied for the injunction.
- (3) A person making an application for an order under sub-paragraph (1) must before doing so—
- (a) consult any youth offending team specified under section 3(1) or, if a youth offending team is not specified under that subsection, the local youth offending team within the meaning of section 14;
 - (b) inform any other body or individual the applicant thinks appropriate.
- (4) In considering whether and how to exercise its powers under this paragraph, the court must consider any representations made by the youth offending team referred to in sub-paragraph (3)(a).
- (5) A detention order may not be made under sub-paragraph (1) in respect of a person aged under 14.
- (6) The court may not make a detention order under sub-paragraph (1) unless it is satisfied that, in view of the severity or extent of the breach, no other power available to the court is appropriate.

PART 2

SUPERVISION ORDERS

Supervision orders

- 2 (1) A supervision order is an order imposing on the person in respect of whom it is made (“the defaulter”) one or more of the following requirements—

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- (a) a supervision requirement (see paragraph 3);
 - (b) an activity requirement (see paragraph 4);
 - (c) a curfew requirement (see paragraph 5).
- (2) Before making a supervision order the court must obtain and consider information about the defaulter’s family circumstances and the likely effect of a supervision order on those circumstances.
- (3) Before making a supervision order imposing two or more requirements, the court must consider their compatibility with each other.
- (4) The court must ensure, as far as practicable, that requirements imposed by a supervision order are such as to avoid—
- (a) any interference with the times, if any, at which the defaulter normally works or attends school or any other educational establishment;
 - (b) any conflict with the requirements of any other court order or injunction to which the defaulter may be subject.
- (5) A supervision order must for the purposes of this Schedule specify a maximum period for the operation of any requirement contained in the order.
- (6) The period specified under sub-paragraph (5) may not exceed 6 months (not counting the day on which the order is made).
- (7) A supervision order must for the purposes of this Schedule specify—
- (a) the youth offending team in whose area it appears to the court that the respondent will live during the period specified under sub-paragraph (5), or
 - (b) if it appears to the court that the defaulter will live in more than one such area, whichever of the relevant youth offending teams the court decides.

Supervision requirements

- 3 (1) In this Schedule “supervision requirement”, in relation to a supervision order, means a requirement that the defaulter attend appointments with—
- (a) the responsible officer (see paragraph 7), or
 - (b) another person decided by the responsible officer,
- at whatever times and places the responsible officer instructs.
- (2) The appointments must be within the period for the time being specified in the order under paragraph 2(5).

Activity requirements

- 4 (1) In this Schedule “activity requirement”, in relation to a supervision order, means a requirement that the defaulter do any or all of the following within the period for the time being specified in the order under paragraph 2(5)—
- (a) participate, on however many days are specified in the order, in activities at a place or places specified in it;
 - (b) participate in an activity or activities specified in the order on however many days are specified in it;
 - (c) participate in one or more residential exercises for a continuous period or periods comprising however many days are specified in the order;

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- (d) in accordance with sub-paragraphs (8) to (10), engage in activities in accordance with instructions of the responsible officer on however many days are specified in the order.
- (2) The aggregate number of days specified in a supervision order in relation to an activity requirement must not be less than 12 or more than 24.
- (3) A requirement referred to in sub-paragraph (1)(a) operates to require the defaulter, in accordance with instructions given by the responsible officer, on the number of days specified in the order in relation to the requirement—
- (a) to present himself or herself at a place specified in the order to a person of a description specified in it;
 - (b) on each day, to comply with instructions given by, or under the authority of, the person in charge of the place.
- (4) A requirement referred to in sub-paragraph (1)(b) operates to require the defaulter, in accordance with instructions given by the responsible officer, on the number of days specified in the order in relation to the requirement—
- (a) to participate in an activity specified in the order;
 - (b) on each day, to comply with instructions given by, or under the authority of, the person in charge of the activity.
- (5) Where the order includes a requirement referred to in sub-paragraph (1)(c) to participate in a residential exercise, it must specify either—
- (a) a place, or
 - (b) an activity,
- in relation to the exercise.
- (6) A requirement under sub-paragraph (1)(c) to participate in a residential exercise in relation to which a place is specified under sub-paragraph (5) operates to require the defaulter, in accordance with instructions given by the responsible officer—
- (a) to present himself or herself at the beginning of the period specified in the order in relation to the exercise, at the place specified in it, to a person of a description specified in the instructions;
 - (b) to live there for that period;
 - (c) during that period to comply with instructions given by, or under the authority of, the person in charge of the place.
- (7) A requirement under sub-paragraph (1)(c) to participate in a residential exercise in relation to which an activity is specified under sub-paragraph (5) operates to require the defaulter, in accordance with instructions given by the responsible officer—
- (a) to participate, for the period specified in the order in relation to the exercise, in the activity specified in it;
 - (b) during that period to comply with instructions given by, or under the authority of, the person in charge of the activity.
- (8) Subject to sub-paragraph (9), instructions under sub-paragraph (1)(d) relating to any particular day must require the defaulter to do either of the following—
- (a) to present himself or herself to a person of a description specified in the instructions at a place specified in them;
 - (b) to participate in an activity specified in the instructions.

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The instructions operate to require the defaulter, on that day or while participating in that activity, to comply with instructions given by, or under the authority of, the person in charge of the place or activity.

- (9) If the supervision order so provides, instructions under sub-paragraph (1)(d) may require the defaulter to participate in a residential exercise for a period comprising not more than seven days, and for that purpose—
- (a) to present himself or herself at the beginning of that period to a person of a description specified in the instructions at a place specified in them, and to live there for that period, or
 - (b) to participate for that period in an activity specified in the instructions.
- (10) Instructions of the kind mentioned in sub-paragraph (9)—
- (a) may not be given except with the consent of a parent or guardian of the defaulter;
 - (b) operate to require the defaulter, during the period specified under that sub-paragraph, to comply with instructions given by, or under the authority of, the person in charge of the place or activity specified under paragraph (a) or (b) of that sub-paragraph.
- (11) Instructions given by, or under the authority of, a person in charge of a place under sub-paragraph (3)(b), (6)(c), (8) or (10)(b) may require the defaulter to engage in activities otherwise than at that place.
- (12) Where a supervision order contains an activity requirement, the court may, on the application of the original applicant or the defaulter, amend the order by substituting for a number of days, place, activity, period or description of persons specified in the order a new number of days, place, activity, period or description (subject, in the case of a number of days, to sub-paragraph (2)).
- (13) A court may include an activity requirement in a supervision order or vary an activity requirement under sub-paragraph (12) only if—
- (a) it has consulted the youth offending team that is to be, or is, specified in the order,
 - (b) it is satisfied that it is feasible to secure compliance with the requirement, or the requirement as varied,
 - (c) it is satisfied that provision for the defaulter to participate in the activities proposed can be made under the arrangements for persons to participate in those activities which exist in the area of the youth offending team that is to be, or is, specified in the order, and
 - (d) in a case where the requirement, or the requirement as varied, would involve the co-operation of a person other than the defaulter and the responsible officer, that person consents to its inclusion or variation.
- (14) In sub-paragraph (10) “guardian” has the same meaning as in the Children and Young Persons Act 1933.
- But where a local authority has parental responsibility (within the meaning given by section 3 of the Children Act 1989) for a defaulter who—
- (a) is in the authority’s care, or
 - (b) is provided with accommodation by the authority in the exercise of social services functions (within the meaning given by section 1A of the Local Authority Social Services Act 1970),

the reference to “guardian” in sub-paragraph (10) is to be read as a reference to that authority.

Curfew requirements

- 5
- (1) In this Schedule “curfew requirement”, in relation to a supervision order, means a requirement that the defaulter remain at a place specified in the order for the periods specified in it.
 - (2) A supervision order imposing a curfew requirement may specify different places or different periods for different days.
 - (3) The periods specified under sub-paragraph (1)—
 - (a) must be within the period for the time being specified in the order under paragraph 2(5);
 - (b) may not amount to less than 2 or more than 8 hours in any day.
 - (4) Before specifying a place under sub-paragraph (1), the court making the order must obtain and consider information about the place proposed to be specified (including information as to the attitude of persons likely to be affected by the enforced presence there of the defaulter).
 - (5) Where a supervision order contains a curfew requirement, the court may, on the application of the original applicant or the defaulter, amend the order by—
 - (a) substituting new periods for the periods specified in the order under this paragraph (subject to sub-paragraph (3));
 - (b) substituting a new place for the place specified in the order under this paragraph (subject to sub-paragraph (4)).

Electronic monitoring requirements

- 6
- (1) A supervision order containing a curfew requirement may also contain a requirement (an “electronic monitoring requirement”) for securing the electronic monitoring of compliance with the curfew requirement during a period—
 - (a) specified in the order, or
 - (b) determined by the responsible officer in accordance with the order.
 - (2) In the case referred to in sub-paragraph (1)(b), the responsible officer must, before the beginning of the period when the electronic monitoring requirement is to take effect, notify—
 - (a) the defaulter,
 - (b) the person responsible for the monitoring, and
 - (c) any person within sub-paragraph (3)(b),of the time when that period is to begin.
 - (3) Where—
 - (a) it is proposed to include an electronic monitoring requirement in a supervision order, but
 - (b) there is a person (other than the defaulter) without whose co-operation it will not be practicable to secure that the monitoring takes place,the requirement may not be included in the order without that person’s consent.

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- (4) A supervision order imposing an electronic monitoring requirement must include provision for making a person responsible for the monitoring.
- (5) An electronic monitoring requirement may not be included in a supervision order unless the court making the order—
 - (a) has been notified by the youth offending team for the time being specified in the order that arrangements for electronic monitoring are available in the area that includes the place the court proposes to specify in the order for the purposes of the curfew requirement, and
 - (b) is satisfied that the necessary provision can be made under the arrangements currently available.
- (6) Where a supervision order contains an electronic monitoring requirement, the court may, on the application of the original applicant or the defaulter, amend the order by substituting a new period for the period specified in the order under this paragraph.
- (7) Sub-paragraph (3) applies in relation to the variation of an electronic monitoring requirement under sub-paragraph (6) as it applies in relation to the inclusion of a requirement.

“Responsible officer”

- 7 (1) For the purposes of this Part of this Schedule, the “responsible officer”, in relation to a supervision order, means—
 - (a) in a case where the order imposes a curfew requirement and an electronic monitoring requirement, but does not impose an activity or supervision requirement, the person who under paragraph 6(4) is responsible for the electronic monitoring;
 - (b) in any other case, the member of the youth offending team for the time being specified in the order who is for the time being responsible for discharging the functions conferred by this Schedule on the responsible officer.
- (2) Where a supervision order has been made, it is the duty of the responsible officer—
 - (a) to make any arrangements that are necessary in connection with the requirements contained in the order;
 - (b) to promote the defaulter’s compliance with those requirements.
- (3) The responsible officer must ensure, so far as practicable, that any instructions given by the officer under a supervision order are such as to avoid the things referred to in paragraph 2(4).
- (4) A defaulter in respect of whom a supervision order is made must—
 - (a) keep in touch with the responsible officer, in accordance with any instructions given by the responsible officer from time to time;
 - (b) notify the responsible officer of any change of address.

These obligations have effect as requirements of the order.

Amendment of operative period

- 8 (1) The court may, on the application of the original applicant, amend a supervision order by substituting a new period for the one specified in the order for the time being under paragraph 2(5) (subject to paragraph 2(6)).

- (2) A court amending a supervision order under sub-paragraph (1) may make whatever other amendments to the order the court considers appropriate in relation to a requirement imposed by the order.

Amendment on change of area of residence

- 9 (1) This paragraph applies where, on an application made in relation to a supervision order by the original applicant or the defaulter, the court is satisfied that the defaulter proposes to live, or is living, in the area of a youth offending team other than the team for the time being specified in the order.
- (2) If the application is made by the defaulter, the court may amend the order by substituting for the youth offending team specified in the order the youth offending team for the area referred to in sub-paragraph (1) (or, if there is more than one youth offending team for that area, whichever of them the court decides).
- (3) If the application is made by the original applicant, the court must amend the order in the way mentioned in sub-paragraph (2) (subject to sub-paragraph (5)).
- (4) Where a court amends the supervision order under sub-paragraph (2) or (3) but the order contains a requirement that, in the opinion of the court, cannot reasonably be complied with if the defaulter lives in the area referred to in sub-paragraph (1), the court must also amend the order by—
- (a) removing that requirement, or
 - (b) substituting for that requirement a new requirement that can reasonably be complied with if the defaulter lives in that area.
- (5) Sub-paragraph (3) does not require a court to amend the supervision order if in its opinion sub-paragraph (4) would produce an inappropriate result.
- (6) The original applicant must consult the youth offending team for the time being specified in the order before making an application under sub-paragraph (1).

Revocation of supervision order

- 10 (1) The original applicant or the defaulter may apply to a youth court—
- (a) to revoke a supervision order;
 - (b) to amend a supervision order by removing a requirement from it.
- (2) If it appears to the court to be in the interests of justice to do so, having regard to circumstances that have arisen since the supervision order was made, the court may grant an application under sub-paragraph (1) and revoke or amend the order accordingly.
- (3) The circumstances referred to in sub-paragraph (2) include the conduct of the defaulter.
- (4) If an application under this paragraph is dismissed, the party by which the dismissed application was made may make no further application under this paragraph without—
- (a) the consent of the court, or
 - (b) the agreement of the other party.

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- (5) The original applicant must consult the youth offending team for the time being specified in the supervision order before making an application under sub-paragraph (1).

Compliance with supervision order

- 11 If the responsible officer considers that the defaulter has complied with all the requirements of the supervision order, the officer must inform the original applicant.

Non-compliance with supervision order

- 12 (1) If the responsible officer considers that the defaulter has failed to comply with a requirement of the supervision order, the officer must inform the original applicant.
- (2) On being informed under sub-paragraph (1) the original applicant may apply to a youth court.
- (3) Before making an application under sub-paragraph (2) the original applicant must—
- (a) consult the youth offending team for the time being specified in the order;
 - (b) inform any other body or individual the original applicant thinks appropriate.
- (4) If on an application under sub-paragraph (2) the court is satisfied beyond reasonable doubt that the defaulter has without reasonable excuse failed to comply with a requirement of the supervision order, the court may—
- (a) revoke the supervision order and make a new one;
 - (b) revoke the order and make a detention order (see Part 3 of this Schedule).
- (5) The powers in sub-paragraph (4)—
- (a) may not be exercised after the defaulter reaches the age of 18;
 - (b) are in addition to any other power of the court in relation to the breach of the supervision order.
- (6) The court must consider any representations made by the youth offending team for the time being specified in the order before exercising its powers under this paragraph.

Copies of supervision order etc

- 13 (1) A court that makes a supervision order must straight away provide a copy of the order to—
- (a) the defaulter;
 - (b) the youth offending team for the time being specified in the order.
- (2) Where a supervision order is made, the original applicant must straight away provide a copy of so much of the order as is relevant—
- (a) in a case where the order includes an activity requirement specifying a place under paragraph 4(1)(a), to the person in charge of that place;
 - (b) in a case where the order includes an activity requirement specifying an activity under paragraph 4(1)(b), to the person in charge of that activity;
 - (c) in a case where the order includes an activity requirement specifying a residential exercise under paragraph 4(1)(c), to the person in charge of the

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- place or activity specified under paragraph 4(5) in relation to that residential exercise;
- (d) in a case where the order contains an electronic monitoring requirement, to—
- (i) any person who by virtue of paragraph 6(4) will be responsible for the electronic monitoring, and
 - (ii) any person without whose consent that requirement could not have been included in the order.
- (3) A court that revokes or amends a supervision order must straight away provide a copy of the revoking order, or of the order as amended, to—
- (a) the defaulter;
 - (b) the youth offending team for the time being specified in the order.
- (4) Where—
- (a) a copy of a supervision order (or part of a supervision order) has been given to a person under sub-paragraph (2) by virtue of a requirement contained in the order, and
 - (b) the order is revoked, or amended in respect of that requirement,
- the original applicant must straight away give a copy of the revoking order, or of so much of the order as amended as is relevant, to that person.

PART 3

DETENTION ORDERS

Detention orders

- 14 (1) A detention order is an order that the person in respect of whom it is made (“the defaulter”) be detained for a period specified in the order in whatever youth detention accommodation the Secretary of State decides.
- (2) The period specified under sub-paragraph (1) may not exceed the period of 3 months (not counting the day on which the order is made).
- (3) In sub-paragraph (1) “youth detention accommodation” means—
- (a) a secure training centre;
 - (b) a young offender institution;
 - (c) secure accommodation, as defined by section 23(12) of the Children and Young Persons Act 1969.
- (4) The function of the Secretary of State under sub-paragraph (1) is exercisable concurrently with the Youth Justice Board.
- (5) A person detained under a detention order is in legal custody.

Revocation of detention order

- 15 (1) Where a detention order is made, the original applicant or the defaulter may apply to a youth court to revoke it.

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- (2) If it appears to the court to be in the interests of justice to do so, having regard to circumstances that have arisen since the detention order was made, the court may grant an application under sub-paragraph (1) and revoke the order accordingly.
- (3) The circumstances referred to in sub-paragraph (2) include the conduct of the defaulter.
- (4) If an application under this paragraph is dismissed, the party by which the dismissed application was made may make no further application under this paragraph without—
 - (a) the consent of the court, or
 - (b) the agreement of the other party.
- (5) A person making an application under this paragraph in relation to a detention order made under paragraph 1 must before doing so consult any youth offending team specified in the injunction under section 3(1) or, if none is specified, the local youth offending team within the meaning of section 14.
- (6) A person making an application under this paragraph in relation to a detention order made under paragraph 12(4)(b) must before doing so consult the youth offending team for the time being specified in the relevant supervision order.