

SCHEDULES

SCHEDULE 7

Section 66.

PROVISIONS SUBSTITUTED FOR SECTION 15 OF 1969 ACT

“15 Variation and discharge of supervision orders

- (1) If while a supervision order is in force in respect of a supervised person it appears to a relevant court, on the application of the supervisor or the supervised person, that it is appropriate to make an order under this subsection, the court may make an order discharging the supervision order or varying it—
 - (a) by cancelling any requirement included in it in pursuance of section 12, 12A, 12AA, 12B, 12C or 18(2)(b) of this Act; or
 - (b) 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) The powers of variation conferred by subsection (1) above do not include power—
 - (a) to insert in the supervision order, after the expiration of three months beginning with the date when the order was originally made, a requirement in pursuance of section 12B(1) of this Act, unless it is in substitution for such a requirement already included in the order; or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 section 12A(3)(b) of this Act in respect of any day which falls outside the period of three months beginning with the date when the order was originally made.
- (3) If while a supervision order made under section 7(7) of this Act is in force in respect of a person it is proved to the satisfaction of a relevant court, on the application of the supervisor, that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12, 12A, 12AA, 12C or 18(2)(b) of this Act, the court—
 - (a) whether or not it also makes an order under subsection (1) above, may order him to pay a fine of an amount not exceeding £1,000 or, subject to section 16A(1) of this Act, may make an attendance centre order in respect of him; or
 - (b) in the case of a person who has attained the age of eighteen, may (if it also discharges the supervision order) make an order imposing on him any punishment, other than a sentence of detention in a young offender institution, which it could have imposed on him if it—
 - (i) had then had power to try him for the offence in consequence of which the supervision order was made; and
 - (ii) had convicted him in the exercise of that power.
- (4) If while a supervision order is in force in respect of a person it is proved to the court under subsection (3) above that the supervised person has failed to comply with any requirement included in the supervision order in pursuance of section 12A(3)(a) of this Act directing the supervised person to participate in specified activities, the court may,

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if it also discharges the supervision order, make an order imposing on him any sentence which it could have imposed on him if it—

- (a) had then had power to try him for the offence in consequence of which the supervision order was made; and
 - (b) had convicted him in the exercise of that power.
- (5) In a case falling within subsection (3)(b) or (4) above where the offence in question is of a kind which the court has no power to try, or has no power to try without appropriate consents, the sentence imposed by virtue of that provision—
 - (a) shall not exceed that which any court having power to try such an offence could have imposed in respect of it; and
 - (b) where the case falls within subsection (3)(b) above and the sentence is a fine, shall not in any event exceed £5,000; and
 - (c) where the case falls within subsection (4) above, shall not in any event exceed a custodial sentence for a term of six months and a fine of £5,000.
- (6) A court may not make an order by virtue of subsection (4) above unless the court which made the supervision order made a statement under subsection (1) of section 12D of this Act; and for the purposes of this subsection a certificate under that section shall be evidence of the making of the statement to which it relates.
- (7) Section 18 of the Criminal Justice Act 1991 (fixing of certain fines by reference to units) shall apply—
 - (a) for the purposes of subsection (3)(a) above as if the failure to comply with the requirement were a summary offence punishable by a fine not exceeding level 3 on the standard scale; and
 - (b) for the purposes of subsections (3)(b) and (4) above as if the failure to comply with the requirement were a summary offence punishable by a fine not exceeding level 5 on that scale;and a fine imposed under any of those provisions shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.
- (8) In dealing with a supervised person under subsection (3) or (4) above, the court shall take into account the extent to which that person has complied with the requirements of the supervision order.
- (9) If a medical practitioner by whom or under whose direction a supervised person is being treated for his mental condition in pursuance of a requirement included in a supervision order by virtue of section 12B(1) of this Act is unwilling to continue to treat or direct the treatment of the supervised person or is of opinion—
 - (a) that the treatment should be continued beyond the period specified in that behalf in the order; or
 - (b) that the supervised person needs different treatment; or
 - (c) that he is not susceptible to treatment; or
 - (d) that he does not require further treatment,the practitioner shall make a report in writing to that effect to the supervisor.
- (10) On receiving a report under subsection (9) 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.
- (11) In this section “relevant court” means—

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- (a) in the case of a supervised person who has not attained the age of eighteen, a youth court;
 - (b) in the case of a supervised person who has attained that age, a magistrates' court other than a youth court.
- (12) The provisions of this section shall have effect subject to the provisions of section 16 of this Act.”