



2011 CHAPTER 24

PART 6

ALTERNATIVES TO PROSECUTION

CHAPTER 2

CONDITIONAL CAUTIONS

**Application of PACE provisions**

**76.—**(1) In the case of a person arrested under section 75, the provisions of PACE specified in subsection (2) apply, with the modifications specified in subsection (3) and with such further modifications as are necessary, as they apply in the case of a person arrested for an offence.

(2) The provisions are—

- (a) Article 32 (arrest elsewhere than at police station);
- (b) Articles 32A to 32D (bail elsewhere than at police station);
- (c) Article 33 (arrest for further offence);
- (d) Article 35(1) to (6) (limitations on police detention);
- (e) Article 37 (custody officers at police stations);
- (f) Article 38(4) to (6) (record of grounds for detention);
- (g) Article 39 (duties of custody officer after charge);
- (h) Article 40 (responsibilities in relation to persons detained);
- (i) Article 56A (x-rays and ultrasound scans).

(3) The modifications are—

- (a) in Article 37(5) and (7), for the references to being involved in the investigation of an offence for which the person is in police detention substitute references to being involved—
    - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
    - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
  - (b) in Article 39(1)(a)(ia), for “arrested for” substitute “charged with”;
  - (c) in Article 40(2) and (3), for the references to an offence substitute references to a failure to comply with conditions attached to the conditional caution.
- (4) Article 41 of PACE (review of police detention) applies to a person in police detention by virtue of section 75 as it applies to a person in police detention in connection with the investigation of an offence, but with the following modifications—
- (a) omit paragraphs (8) and (8A);
  - (b) in paragraph (9), for the reference to Article 38(9) substitute a reference to the second sentence of section 75(5).
- (5) The following provisions of PACE apply to a person released on bail under section 75(2)(b) as they apply to a person released on bail under Article 38 of PACE—
- (a) Article 47A (power of arrest for failure to answer to police bail);
  - (b) Article 48 (bail after arrest).
- (6) Article 55 of PACE (searches of detained persons) applies in the case of a person who falls within subsection (3) of section 75 and is detained in a police station under that section as it applies in the case of a person who falls within Article 35(8) of PACE and is detained at a police station under Article 38.
- (7) Article 55A of PACE (searches and examination to ascertain identity) applies with the following modifications in the case of a person who is detained in a police station under section 75—
- (a) in paragraphs (1)(a) and (12), after “as a person involved in the commission of an offence” insert “or as having failed to comply with any of the conditions attached to his conditional caution”;
  - (b) in paragraph (9)(a), after “the investigation of an offence” insert “, the investigation of whether the person in question has failed to comply with any of the conditions attached to his conditional caution”.