



Criminal Justice and Courts Act 2015

2015 CHAPTER 2

PART 1

CRIMINAL JUSTICE

Cautions etc

17 Restrictions on use of cautions

- (1) This section applies where, in England and Wales, a person aged 18 or over admits that he or she has committed an offence.
- (2) If the offence is an indictable-only offence, a constable may not give the person a caution except—
 - (a) in exceptional circumstances relating to the person or the offence, and
 - (b) with the consent of the Director of Public Prosecutions.
- (3) If the offence is an either-way offence specified by order made by the Secretary of State, a constable may not give the person a caution except in exceptional circumstances relating to the person or the offence.
- (4) If—
 - (a) the offence is a summary offence or an either-way offence not specified under subsection (3), and
 - (b) in the two years before the commission of the offence the person has been convicted of, or cautioned for, a similar offence,a constable may not give the person a caution except in exceptional circumstances relating to the person, the offence admitted or the previous offence.
- (5) It is for a police officer not below a rank specified by order made by the Secretary of State to determine—
 - (a) whether there are exceptional circumstances for the purposes of subsection (2), (3) or (4), and

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, Cross Heading: Cautions etc. (See end of Document for details)

- (b) whether a previous offence is similar to the offence admitted for the purposes of subsection (4)(b).
- (6) A determination under subsection (5) must be made in accordance with guidance issued by the Secretary of State.
- (7) The Secretary of State may by order amend this section so as to provide for a different period for the purposes of subsection (4)(b).
- (8) For the purposes of this section—
 - (a) “caution” does not include a conditional caution under Part 3 of the Criminal Justice Act 2003, but
 - (b) a person has been “cautioned for” an offence if he or she has been given a caution, a conditional caution or a youth caution or youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998.
- (9) In this section—
 - “either-way offence” means an offence triable either way;
 - “indictable-only offence” means an offence which, if committed by an adult, is triable only on indictment.
- (10) This section applies whether the offence admitted was committed before or after the time when this section comes into force.

Commencement Information

II S. 17 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 13

18 Restrictions on use of cautions: supplementary

- (1) An order under section 17 may make different provision for different purposes.
- (2) An order under section 17 must be made by statutory instrument.
- (3) A statutory instrument containing an order under section 17(3) (specification of either-way offences) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) An order under section 17(7) (change to period in section 17(4)(b)) may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) In section 37B of the Police and Criminal Evidence Act 1984 (consultation with the Director of Public Prosecutions), in subsection (7), after “such a caution” insert “ (whether because of section 17 of the Criminal Justice and Courts Act 2015 or for any other reason) ”.

Commencement Information

I2 S. 18 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 14

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015, Cross Heading: Cautions etc. (See end of Document for details)

19 Alternatives to prosecution: rehabilitation of offenders in Scotland

In Schedule 3 to the Rehabilitation of Offenders Act 1974 (protection for spent alternatives to prosecution: Scotland), at the end insert—

- “9 (1) The powers conferred on the Scottish Ministers by—
- (a) paragraph 6, and
 - (b) section 7(4), as applied by paragraph 8,
- may be exercised to make provision relating to reserved matters and are not subject to the restrictions imposed by section 29(2)(b) or (c) of, or Schedule 4 to, the Scotland Act 1998.
- (2) In this paragraph, “reserved matters” has the same meaning as in the Scotland Act 1998.”

Commencement Information

I3 S. 19 in force at 13.4.2015 by S.I. 2015/778, art. 3, Sch. 1 para. 15

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice and Courts Act 2015,
Cross Heading: Cautions etc.