



Criminal Justice Act 2003

2003 CHAPTER 44

PART 3

CONDITIONAL CAUTIONS

22 Conditional cautions

- (1) An authorised person may give a conditional caution to a person aged 18 or over (“the offender”) if each of the five requirements in section 23 is satisfied.
- (2) In this Part “conditional caution” means a caution which is given in respect of an offence committed by the offender and which has conditions attached to it with which the offender must comply.
- (3) The conditions which may be attached to such a caution are those which have either or both of the following objects—
 - (a) facilitating the rehabilitation of the offender,
 - (b) ensuring that he makes reparation for the offence.
- (4) In this Part “authorised person” means—
 - (a) a constable,
 - (b) an investigating officer, or
 - (c) a person authorised by a relevant prosecutor for the purposes of this section.

23 The five requirements

- (1) The first requirement is that the authorised person has evidence that the offender has committed an offence.
- (2) The second requirement is that a relevant prosecutor decides—
 - (a) that there is sufficient evidence to charge the offender with the offence, and
 - (b) that a conditional caution should be given to the offender in respect of the offence.

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- (3) The third requirement is that the offender admits to the authorised person that he committed the offence.
- (4) The fourth requirement is that the authorised person explains the effect of the conditional caution to the offender and warns him that failure to comply with any of the conditions attached to the caution may result in his being prosecuted for the offence.
- (5) The fifth requirement is that the offender signs a document which contains—
 - (a) details of the offence,
 - (b) an admission by him that he committed the offence,
 - (c) his consent to being given the conditional caution, and
 - (d) the conditions attached to the caution.

[^{F1}23A Financial penalties

- (1) A condition that the offender pay a financial penalty (a “financial penalty condition”) may not be attached to a conditional caution given in respect of an offence unless the offence is one that is prescribed, or of a description prescribed, in an order made by the Secretary of State.
- (2) An order under subsection (1) must prescribe, in respect of each offence or description of offence in the order, the maximum amount of the penalty that may be specified under subsection (5)(a).
- (3) The amount that may be prescribed in respect of any offence must not exceed—
 - (a) one quarter of the amount of the maximum fine for which a person is liable on summary conviction of the offence, or
 - (b) £250,whichever is the lower.
- (4) The Secretary of State may by order amend subsection (3) by—
 - (a) substituting a different fraction in paragraph (a);
 - (b) substituting a different figure in paragraph (b).
- (5) Where a financial penalty condition is attached to a conditional caution, a relevant prosecutor must also specify—
 - (a) the amount of the penalty,
 - (b) the designated officer for a local justice area to whom the penalty is to be paid, and
 - (c) the address of that officer.
- (6) To comply with the condition, the offender must pay the penalty to the specified officer.
- (7) The offender may pay a sum in respect of the penalty by pre-paying and posting a letter containing that sum (in cash or otherwise) to the address specified under subsection (5)(c).
- (8) If a person—
 - (a) claims to have made payment by the method described in subsection (7), and
 - (b) shows that his letter was posted,

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then, unless the contrary is proved, payment is to be regarded as made at the time at which the letter would be delivered in the ordinary course of post.

(9) Subsection (7) is not to be read as preventing payment by other means.]

Textual Amendments

F1 S. 23A inserted (8.7.2009 for specified purposes, 16.11.2009 for specified purposes, 8.4.2013 in so far as not already in force) by [Police and Justice Act 2006 \(c. 48\)](#), [ss. 17\(4\), 53\(1\)](#); [S.I. 2009/1679](#), [art. 2\(1\)\(4\)](#); [S.I. 2009/2774](#), [art. 2\(1\)\(3\)](#); [S.I. 2013/592](#), [art. 2\(1\)](#)

VALID FROM 08/07/2009

[^{F2}23B Variation of conditions

A relevant prosecutor may, with the consent of the offender, vary the conditions attached to a conditional caution by—

- (a) modifying or omitting any of the conditions;
- (b) adding a condition.]

Textual Amendments

F2 S. 23B inserted (8.7.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 148, 153](#), [Sch. 26 para. 61](#); [S.I. 2009/1678](#), [art. 2\(b\)\(ii\)](#)

24 Failure to comply with conditions

- (1) If the offender fails, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, criminal proceedings may be instituted against the person for the offence in question.
- (2) The document mentioned in section 23(5) is to be admissible in such proceedings.
- (3) Where such proceedings are instituted, the conditional caution is to cease to have effect.

VALID FROM 29/06/2007

[^{F3}24A Arrest for failure to comply

- (1) If a constable has reasonable grounds for believing that the offender has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, he may arrest him without warrant.
- (2) A person arrested under this section must be—
 - (a) charged with the offence in question,
 - (b) released without charge and on bail to enable a decision to be made as to whether he should be charged with the offence, or

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- (c) released without charge and without bail (with or without any variation in the conditions attached to the caution).
- (3) Subsection (2) also applies in the case of—
- (a) a person who, having been released on bail under subsection (2)(b), returns to a police station to answer bail or is otherwise in police detention at a police station;
 - (b) a person who, having been released on bail under section 30A of the 1984 Act (bail elsewhere than at police station) as applied by section 24B below, attends at a police station to answer bail or is otherwise in police detention at a police station;
 - (c) a person who is arrested under section 30D or 46A of the 1984 Act (power of arrest for failure to answer to police bail) as applied by section 24B below.
- (4) Where a person is released under subsection (2)(b), the custody officer must inform him that he is being released to enable a decision to be made as to whether he should be charged with the offence in question.
- (5) A person arrested under this section, or any other person in whose case subsection (2) applies, may be kept in police detention—
- (a) to enable him to be dealt with in accordance with that subsection, or
 - (b) where applicable, to enable the power under section 37D(1) of the 1984 Act (power of custody officer to appoint a different or additional time for answering to police bail), as applied by section 24B below, to be exercised.
- If the person is not in a fit state to enable him to be so dealt with, or to enable that power to be exercised, he may be kept in police detention until he is.
- (6) The power under subsection (5)(a) includes power to keep the person in police detention if it is necessary to do so for the purpose of investigating whether he has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution.
- (7) Subsection (2) must be complied with as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.
- (8) Subsection (2) does not require a person who—
- (a) falls within subsection (3)(a) or (b), and
 - (b) is in police detention in relation to a matter other than the conditional caution, to be released if he is liable to be kept in detention in relation to that other matter.
- (9) In this Part—
- “the 1984 Act” means the Police and Criminal Evidence Act 1984;
- “police detention” has the same meaning as in the 1984 Act (see section 118(2) of that Act).

Textual Amendments

- F3** Ss. 24A, 24B inserted (29.6.2007) by [Police and Justice Act 2006 \(c. 48\)](#), **ss. 18(1)**, 53 (with s. 18(2)); [S.I. 2007/1614](#), **art. 2(e)**

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Modifications etc. (not altering text)

- C1** S. 24A(1) applied (16.11.2009) by Crime and Disorder Act 1998 (c. 37), s. 66E(4) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), ss. 48, 153, **Sch. 9 para. 3** (with Sch. 27 para. 18)); S.I. 2009/2780, **art. 2(1)(c)**
- C2** S. 24A(2)-(9) applied (16.11.2009) by Crime and Disorder Act 1998 (c. 37), s. 66E(5) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), ss. 48, 153, **Sch. 9 para. 3** (with Sch. 27 para. 18)); S.I. 2009/2780, **art. 2(1)(c)**

VALID FROM 29/06/2007

24B Application of PACE provisions

- (1) In the case of a person arrested under section 24A, the provisions of the 1984 Act 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) section 30 (arrest elsewhere than at police station);
 - (b) sections 30A to 30D (bail elsewhere than at police station);
 - (c) section 31 (arrest for further offence);
 - (d) section 34(1) to (5) (limitations on police detention);
 - (e) section 36 (custody officers at police stations);
 - (f) section 37(4) to (6) (record of grounds for detention);
 - (g) section 38 (duties of custody officer after charge);
 - (h) section 39 (responsibilities in relation to persons detained);
 - (i) section 55A (x-rays and ultrasound scans).
- (3) The modifications are—
- (a) in section 30CA(5)(a), for the reference to being involved in the investigation of the offence mentioned in that provision substitute a reference 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 section 36(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;
 - (c) in section 38(1)(a)(iii) and (iv), for “arrested for” substitute “charged with”;
 - (d) in section 39(2) and (3), for the references to an offence substitute references to a failure to comply with conditions attached to the conditional caution.

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- (4) Section 40 of the 1984 Act (review of police detention) applies to a person in police detention by virtue of section 24A above as it applies to a person in police detention in connection with the investigation of an offence, but with the following modifications—
- (a) omit subsections (8) and (8A);
 - (b) in subsection (9), for the reference to section 37(9) or 37D(5) substitute a reference to the second sentence of section 24A(5) above.
- (5) The following provisions of the 1984 Act apply to a person released on bail under section 24A(2)(b) above as they apply to a person released on bail under section 37 of that Act—
- (a) section 37D(1) to (3) (power of custody officer to appoint a different or additional time for answering to police bail);
 - (b) section 46A (power of arrest for failure to answer to police bail);
 - (c) section 47 (bail after arrest).
- (6) Section 54 of the 1984 Act (searches of detained persons) applies in the case of a person who falls within subsection (3) of section 24A above and is detained in a police station under that section as it applies in the case of a person who falls within section 34(7) of that Act and is detained at a police station under section 37.
- (7) Section 54A of the 1984 Act (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 24A above—
- (a) in subsections (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 subsection (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”.]

Textual Amendments

- F3** Ss. 24A, 24B inserted (29.6.2007) by [Police and Justice Act 2006 \(c. 48\)](#), **ss. 18(1), 53** (with s. 18(2)); [S.I. 2007/1614](#), **art. 2(e)**

Modifications etc. (not altering text)

- C3** S. 24B applied (16.11.2009) by [Crime and Disorder Act 1998 \(c. 37\)](#), s. 66E(5) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 48, 153, **Sch. 9 para. 3** (with Sch. 27 para. 18)); [S.I. 2009/2780](#), **art. 2(1)(c)**

25 Code of practice

- (1) The Secretary of State must prepare a code of practice in relation to conditional cautions.
- (2) The code may, in particular, include provision as to—
 - (a) the circumstances in which conditional cautions may be given,
 - (b) the procedure to be followed in connection with the giving of such cautions,

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- (c) the conditions which may be attached to such cautions and the time for which they may have effect,
 - (d) the category of constable or investigating officer by whom such cautions may be given,
 - (e) the persons who may be authorised by a relevant prosecutor for the purposes of section 22,
 - (f) the form which such cautions are to take and the manner in which they are to be given and recorded,
 - (g) the places where such cautions may be given, and
 - (h) the monitoring of compliance with conditions attached to such cautions.
- (3) After preparing a draft of the code the Secretary of State—
- (a) must publish the draft,
 - (b) must consider any representations made to him about the draft, and
 - (c) may amend the draft accordingly,
- but he may not publish or amend the draft without the consent of the Attorney General.
- (4) After the Secretary of State has proceeded under subsection (3) he must lay the code before each House of Parliament.
- (5) When he has done so he may bring the code into force by order.
- (6) The Secretary of State may from time to time revise a code of practice brought into force under this section.
- (7) Subsections (3) to (6) are to apply (with appropriate modifications) to a revised code as they apply to an original code.

26 Assistance of National Probation Service

- (1) Section 1 of the Criminal Justice and Court Services Act 2000 (c. 43) (purposes of Chapter 1) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) This Chapter also has effect for the purposes of providing for—
- (a) authorised persons to be given assistance in determining whether conditional cautions should be given and which conditions to attach to conditional cautions, and
 - (b) the supervision and rehabilitation of persons to whom conditional cautions are given.”
- (3) After subsection (3) there is inserted—
- “(4) In this section “authorised person” and “conditional caution” have the same meaning as in Part 3 of the Criminal Justice Act 2003.”

27 Interpretation of Part 3

In this Part—

- “authorised person” has the meaning given by section 22(4),
- “conditional caution” has the meaning given by section 22(2),

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“investigating officer” means [^{F4}an officer of Revenue and Customs, appointed in accordance with section 2(1) of the Commissioners for Revenue and Customs Act 2005, or] a person designated as an investigating officer under section 38 of the Police Reform Act 2002 (c. 30),

“the offender” has the meaning given by section 22(1),

“relevant prosecutor” means—

- (a) the Attorney General,
- (b) the Director of the Serious Fraud Office,
- (ba) [^{F5}the Director of Revenue and Customs Prosecutions,]
- (c) the Director of Public Prosecutions,
- (d) a Secretary of State,
- (e) ^{F6}.....
- (f) ^{F6}.....
- (g) a person who is specified in an order made by the Secretary of State as being a relevant prosecutor for the purposes of this Part.

Textual Amendments

- F4** Words in s. 27 inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50(6), 53, **Sch. 4 para. 129(a)**; S.I. 2005/1126, **art. 2(2)**
- F5** In s. 27 in definition of "relevant prosecutor" item (ba) inserted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50(6), 53, **Sch. 4 para. 129(b)**; S.I. 2005/1126, **art. 2(2)**
- F6** Words in s. 27 repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 50(6), 52(2), 53, **Sch. 4 para. 129(b)**, **Sch. 5**; S.I. 2005/1126, **art. 2(2)**

Commencement Information

- I1** S. 27 wholly in force; s. 27 not in force at Royal Assent, see s. 336(3); s. 27 in force for certain purposes at 3.7.2004 by S.I. 2004/1629, **art. 2**; s. 27 wholly in force at 16.11.2009 by S.I. 2009/2775, **art. 2**

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