



Police and Justice Act 2006

2006 CHAPTER 48

PART 2

POWERS OF POLICE ETC

Police powers

VALID FROM 01/04/2007

10 Police bail

Schedule 6, which amends provisions in the Police and Criminal Evidence Act 1984 (c. 60) that relate to bail—

- (a) granted by a constable elsewhere than at a police station, or
 - (b) granted at a police station,
- has effect.

11 Power to detain pending DPP's decision about charging

In section 37 of the Police and Criminal Evidence Act 1984 (duties of custody officer before charge), in paragraph (a) of subsection (7) (officer's duties when he determines that there is sufficient evidence to charge), for "shall be released without charge and on bail for the purpose" there is substituted "shall be—

- (i) released without charge and on bail, or
- (ii) kept in police detention,

for the purpose".

Status: Point in time view as at 15/01/2007. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Police and Justice Act 2006, Part 2. (See end of Document for details)

Commencement Information

II S. 11 in force at 15.1.2007 by S.I. 2006/3364, art. 2(c)

VALID FROM 01/04/2007

12 Power to stop and search at aerodromes

In Part 3 of the Aviation Security Act 1982 (c. 36) (policing of airports), before section 25 there is inserted—

“Power to stop and search at aerodromes

24B Power of constable to stop and search persons, vehicles etc

- (1) Subject to subsection (2) below, a constable may search—
 - (a) any person, vehicle or aircraft in an aerodrome, or
 - (b) anything which is in or on such a vehicle or aircraft,
 for stolen or prohibited articles.
- (2) This section does not give a constable power to search a person, vehicle or aircraft, or anything in or on a vehicle or aircraft, unless he has reasonable grounds for suspecting that he will find stolen or prohibited articles.
- (3) For the purposes of exercising the power conferred by subsection (1) above, a constable may—
 - (a) enter any part of an aerodrome;
 - (b) detain a person, vehicle or aircraft;
 - (c) board an aircraft.
- (4) If in the course of a search under subsection (1) above a constable discovers an article which he has reasonable grounds for suspecting to be a stolen or prohibited article, he may seize it.
- (5) An article is prohibited for the purposes of this section if it is an article—
 - (a) made or adapted for use in the course of or in connection with criminal conduct, or
 - (b) intended by the person having it with him for such use by him or by some other person.
- (6) In this section “criminal conduct” means conduct which—
 - (a) constitutes an offence in the part of the United Kingdom in which the aerodrome is situated, or
 - (b) would constitute an offence in that part of the United Kingdom if it occurred there.
- (7) The powers conferred by this section on a constable are without prejudice to any powers exercisable by him apart from this section.
- (8) The exercise of a power under this section does not require a warrant.

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(9) Nothing in this section authorises a constable to enter a dwelling.”

VALID FROM 29/06/2007

Information from registers of death

13 Supply of information to police etc by Registrar General

- (1) The Registrar General for England and Wales or the Registrar General for Northern Ireland may supply information contained in any register of deaths kept by him—
 - (a) to a police force in the United Kingdom,
 - (b) to a special police force,
 - (c) to the Serious Organised Crime Agency, or
 - (d) to a person or body specified, or of a description specified, by order, for use in the prevention, detection, investigation or prosecution of offences.
- (2) The power to make an order under subsection (1)(d) is exercisable—
 - (a) in relation to England and Wales, by the Registrar General for England and Wales with the approval of the Chancellor of the Exchequer;
 - (b) in relation to Northern Ireland, by the Secretary of State after consulting the Registrar General for Northern Ireland.
- (3) A Registrar General may charge a reasonable fee in respect of the cost of supplying information under this section.
- (4) The supply of information in the exercise of the power conferred by subsection (1) may be made subject to conditions, including in particular conditions as to—
 - (a) the use and storage of the information;
 - (b) the period for which any record of the information may be retained;
 - (c) those to whom the information may be disclosed.
- (5) This section does not limit the circumstances in which information may be supplied apart from this section.
- (6) In this section “special police force” means—
 - (a) the Ministry of Defence Police;
 - (b) the British Transport Police Force;
 - (c) the Civil Nuclear Constabulary;
 - (d) the Scottish Crime and Drug Enforcement Agency.

PROSPECTIVE

Travel and freight information

14 Information-gathering powers: extension to domestic flights and voyages

- (1) The Immigration, Asylum and Nationality Act 2006 (c. 13) is amended as follows.

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- (2) In section 32 (police powers to gather information relating to flights and voyages to or from the United Kingdom), in subsection (1) (ships and aircraft to which section applies), for paragraphs (a) and (b) there is substituted—
- “(a) arriving, or expected to arrive, at any place in the United Kingdom (whether from a place in the United Kingdom or from outside the United Kingdom), or
- (b) leaving, or expected to leave, from any place in the United Kingdom (whether for a place in the United Kingdom or for outside the United Kingdom).”
- (3) In each of section 32(5) (interpretation of section) and section 33(5) (police powers to gather information about freight entering or leaving the United Kingdom: interpretation of section), after paragraph (c) there is inserted “, and
- (d) “ship” includes—
- (i) every description of vessel used in navigation, and
- (ii) hovercraft.”
- (4) In section 36 (duty to share travel and freight information), in subsection (9) (interpretation of section), after the definition of “Revenue and Customs purposes” there is inserted “, and
- “ship” includes—
- (a) every description of vessel used in navigation, and
- (b) hovercraft.”
- (5) In section 38 (disclosure of travel and freight information for security purposes), after subsection (5) there is inserted—
- “(5A) In subsection (4) “ship” includes—
- (a) every description of vessel used in navigation, and
- (b) hovercraft.”

VALID FROM 01/04/2007

Fixed penalty notices

15 Accreditation of weights and measures inspectors

- (1) After section 41 of the Police Reform Act 2002 (c. 30) there is inserted—

“41A Accreditation of weights and measures inspectors

- (1) The chief officer of police of any police force may, on the making of an application for the purpose by such person and in such manner as he may require, grant accreditation under this section to a weights and measures inspector.
- (2) A weights and measures inspector to whom an accreditation under this section is granted by a chief officer of police may exercise the powers conferred by the accreditation in the chief officer's police area.

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- (3) Schedule 5A (which sets out the powers that may be conferred on inspectors accredited under this section) shall have effect.
 - (4) A chief officer of police shall not grant accreditation to a weights and measures inspector under this section unless he is satisfied that—
 - (a) the inspector is a suitable person to exercise the powers that will be conferred on him by virtue of the accreditation; and
 - (b) the inspector has received adequate training for the exercise of those powers.
 - (5) A chief officer of police may charge such fee as he considers appropriate for one or both of the following—
 - (a) considering an application for or for the renewal of an accreditation under this section;
 - (b) granting an accreditation under this section.
 - (6) A weights and measures inspector authorised or required to do anything by virtue of an accreditation under this section—
 - (a) shall not be authorised or required by virtue of that accreditation to engage in any conduct otherwise than in the course of his duties as a weights and measures inspector; and
 - (b) shall be so authorised or required subject to such other restrictions and conditions (if any) as may be specified in his accreditation.
 - (7) An accreditation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (8), shall remain in force for such period as may be specified in the accreditation, but it may be renewed at any time with effect from the time when it would otherwise expire.
 - (8) An accreditation under this section shall cease to have effect if the accredited inspector ceases to hold office as a weights and measures inspector.”
- (2) After Schedule 5 to that Act there is inserted the Schedule set out in Schedule 7 to this Act.

16 Power to apply accreditation provisions

After section 41A of the Police Reform Act 2002 (c. 30) (inserted by section 15 above) there is inserted—

“41B Power to apply accreditation provisions

- (1) The Secretary of State may by order provide for section 41A and any other provision of this Chapter relating to accredited inspectors to apply (with or without modification) in relation to persons of a description specified in the order.
- (2) The provision which may be made by an order under this section includes such modifications of other enactments as appear to the Secretary of State to be necessary or appropriate.

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- (3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”

VALID FROM 29/06/2007

Conditional cautions

VALID FROM 08/07/2009

17 Conditional cautions: types of condition

- (1) Part 3 of the Criminal Justice Act 2003 (c. 44) (conditional cautions) is amended as set out in subsections (2) to (4).
- (2) In section 22, for subsection (3) (types of conditions that may be attached to cautions) there is substituted—

“(3) The conditions which may be attached to such a caution are those which have one or more of the following objects—

- (a) facilitating the rehabilitation of the offender;
- (b) ensuring that the offender makes reparation for the offence;
- (c) punishing the offender.”

- (3) After that subsection there is inserted—

“(3A) The conditions which may be attached to a conditional caution include—

- (a) (subject to section 23A) a condition that the offender pay a financial penalty;
- (b) a condition that the offender attend at a specified place at specified times.

“Specified” means specified by a relevant prosecutor.

(3B) Conditions attached by virtue of subsection (3A)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender's rehabilitation.

(3C) The Secretary of State may by order amend subsection (3B) by substituting a different figure.”

- (4) After section 23 (requirements for conditional caution to be given) there is inserted—

“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.

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- (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,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.”
- (5) In section 330 of that Act (orders subject to affirmative resolution procedure), in subsection (5)—
 - (a) in paragraph (a), before “section 25(5)” there is inserted— “section 22(3C), ”;
 - (b) after that paragraph there is inserted—
 - “(aa) an order under section 23A(4) which makes provision—
 - (i) increasing the fraction in section 23A(3)(a), or
 - (ii) increasing the figure in section 23A(3)(b) by more than is necessary to reflect changes in the value of money,”.

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18 Arrest for failing to comply with conditional caution

- (1) In Part 3 of the Criminal Justice Act 2003 (c. 44) (conditional cautions), after section 24 there is inserted—

“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
 - (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.

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- (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).

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;

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- (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.
- (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”.
- (2) The reference in subsection (1) of section 24A of the Criminal Justice Act 2003 (c. 44) (inserted by subsection (1) above) to a failure to comply with conditions attached to a conditional caution is to any such failure occurring on or after the day on which this section comes into force.

Status:

Point in time view as at 15/01/2007. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Police and Justice Act 2006, Part 2.