



Police and Justice Act 2006

2006 CHAPTER 48

PART 2 **E+W+N.I.**

POWERS OF POLICE ETC

Conditional cautions

VALID FROM 08/07/2009

17 **Conditional cautions: types of condition** **E+W**

(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.

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(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.

(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.

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- (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,”.

18 Arrest for failing to comply with conditional caution **E+W**

- (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

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- (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).

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—

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- (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.
- (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”.

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- (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.

Commencement Information

II S. 18 in force at 29.6.2007 by S.I. 2007/1614, art. 2(e)

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