

2009 No. 2781

CRIMINAL LAW, ENGLAND AND WALES

**The Crime and Disorder Act 1998 (Youth Conditional Cautions:
Financial Penalties) Order 2009**

<i>Made</i> - - - -	<i>15th October 2009</i>
<i>Laid before Parliament</i>	<i>19th October 2009</i>
<i>Coming into force</i> - -	<i>16th November 2009</i>

The Secretary of State, in exercise of the power conferred by section 66C(1) of the Crime and Disorder Act 1998(a), makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Crime and Disorder Act 1998 (Youth Conditional Cautions: Financial Penalties) Order 2009 and comes into force on 16 November 2009.

(2) In this Order—

“the 1968 Act” means the Theft Act 1968(b);

“the 1971 Act” means the Criminal Damage Act 1971(c);

“the 1986 Act” means the Public Order Act 1986(d);

“the 1998 Act” means the Crime and Disorder Act 1998;

“the 2006 Act” means the Fraud Act 2006(e); and

“excluded offence” means—

(i) loitering or soliciting for the purposes of prostitution contrary to section 1 of the Street Offences Act 1959(f);

(ii) any offence under the Road Traffic Act 1988(g); or

(iii) any offence under the Road Traffic Offenders Act 1988(h).

Prescribed offences and financial penalties

2.—(1) The offences and the description of offences listed in the Schedules to this Order are prescribed for the purposes of section 66C(1) of the 1998 Act.

(a) 1998 c.37. Section 66C was inserted by section 48 of, and paragraph 3 of Schedule 9 to, the Criminal Justice and Immigration Act 2008 (c.4).

(b) 1968 c.60.

(c) 1971 c.48.

(d) 1986 c.64.

(e) 2006 c.35.

(f) 1959 c.57.

(g) 1988 c.52.

(h) 1988 c.53.

(2) Each offence listed in Schedule 1 includes an attempt to commit that offence.

(3) The maximum amount, for the purposes of section 66C(2) of the 1998 Act, in respect of each of the offences or description of offences listed in Schedule 1 to this Order is £75.

(4) The maximum amount, for the purposes of section 66C(2) of the 1998 Act, in respect of each of the offences or description of offences listed in column 1 of Schedule 2 to this Order, is the amount listed in column 2 of that Schedule.

Signed by the authority of the Secretary of State

15th October 2009

Maria Eagle
Minister of State
Ministry of Justice

SCHEDULE 1

Article 2(1), (2) and (3)

Prescribed offences and description of offences (including attempts)

Theft contrary to section 1(1) of the 1968 Act

Removal an article from a place open to the public contrary to section 11 of the 1968 Act

Abstracting electricity contrary to section 13 of the 1968 Act

False accounting contrary to section 17(1)(a) of the 1968 Act

Handling stolen goods contrary to section 22(1) of the 1968 Act

Going equipped for burglary or theft contrary to section 25 of the 1968 Act

Destroying or damaging property contrary to section 1(1) of the 1971 Act

Threatening to destroy or damage property contrary to section 2 of the 1971 Act

Possessing articles with intent to destroy or damage property contrary to section 3 of the 1971 Act

Making off without payment contrary to section 3(1) of the Theft Act 1978 (c. 31)

Forgery etc of documents contrary to section 173 of the Road Traffic Act 1988 (c. 52)

Forgery or fraudulent use etc of a vehicle licence or trade licence etc contrary to section 44(1) of the Vehicle Excise and Registration Act 1994 (c. 22)

Fraud contrary to section 1 of the 2006 Act

Possession etc of articles for use in fraud contrary to section 6(1) of the 2006 Act

Making, adopting, supplying or offering to supply an article for use in fraud contrary to section 7 of the 2006 Act

Obtaining services dishonestly contrary to section 11 of the 2006 Act

SCHEDULE 2

Article 2(1) and (4)

Prescribed offences and description of offences

<i>Column 1</i>	<i>Column 2</i>
Causing harassment, alarm or distress contrary to section 5 of the 1986 Act	£50
Any summary offence, except an excluded offence, for which a person shall be liable on conviction to a maximum fine of level 5 on the standard scale	£75
Any summary offence, except an excluded offence, for which a person shall be liable on conviction to a maximum fine of level 4 on the standard scale	£50
Any summary offence for which a person shall be liable on conviction to a maximum fine of level 1, 2 or 3 on the standard scale, other than an excluded offence or causing harassment, alarm or distress contrary to section 5 of the 1986 Act	£30

EXPLANATORY NOTE

(This note is not part of the Order)

Youth Conditional Cautions are cautions for those aged between 10 to 17 years old (inclusive) to which specified conditions are attached, and are provided for in Part 4 (sections 66A to 66H) of the Crime and Disorder Act 1998 (c.37), inserted by section 48 of, and Schedule 9 to, the Criminal Justice and Immigration Act 2008 (c.4). A Youth Conditional Caution may be given for reasons including that a prosecutor considers there is sufficient evidence to prosecute the offender and the offender admits the offence and agrees to a conditional caution being imposed.

In the first instance, Youth Conditional Cautions are only being introduced for 16 and 17 year olds and in limited police areas – see the “Code of Practice for Youth Conditional Cautions for 16 & 17 year olds” prepared by the Secretary of State under section 66G of the Crime and Disorder Act 1998 and the Criminal Justice and Immigration Act 2008 (Commencement No. 12) Order.

One of the conditions which may be attached to a Youth Conditional Caution is a financial penalty. This Order prescribes the offences and description of offences in relation to which a financial penalty condition may be attached to a conditional caution given under section 66A of the Crime and Disorder Act 1998 in respect of the offence. The prescribed offences and description of offences are listed in Schedule 1 and column 1 of the Table in Schedule 2. The Order also prescribes in respect of each of the prescribed offences and description of offences the maximum amount of the penalty that may be specified in a financial penalty condition attached to a conditional caution by a relevant prosecutor. The prescribed maximum amounts are £75 in respect of the offences and descriptions of offences in Schedule 1 and the sums specified in column 2 of the Table in Schedule 2.

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