

2015 No. 790

CRIMINAL LAW, ENGLAND AND WALES

**The Criminal Justice and Courts Act 2015 (Simple Cautions)
(Specification of Either-Way Offences) Order 2015**

<i>Made</i>	- - - -	<i>19th March 2015</i>
<i>Laid before Parliament</i>		<i>23rd March 2015</i>
<i>Coming into force</i>	- -	<i>13th April 2015</i>

The Secretary of State, in exercise of the powers conferred by sections 17(3) and 18(1) of the Criminal Justice and Courts Act 2015(a), makes the following Order:

Citation and commencement

1. This Order may be cited as the Criminal Justice and Courts Act 2015 (Simple Cautions) (Specification of Either-Way Offences) Order 2015 and comes into force on 13th April 2015.

Interpretation

2. In this Order, “Class A drug” has the meaning given by section 2(1)(b) of the Misuse of Drugs Act 1971(b).

Specified offences

3. The offences listed in the Schedule are specified for the purposes of section 17(3) of the Criminal Justice and Courts Act 2015.

19th March 2015

Shailesh Vara
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE

Article 3

Either-way offences specified for the purposes of section 17(3) of the Criminal Justice and Courts Act 2015

1. An offence under section 1(1) of the Children and Young Persons Act 1933(a).
2. An offence under section 1(1) of the Prevention of Crime Act 1953(b).
3. An offence under section 1A(1) of that Act(c).
4. An offence under section 14(1) of the Sexual Offences Act 1956(d), where the victim of the offence was under the age of 16 at the time of the offence.
5. An offence under section 15(1) of that Act(e), where the victim of the offence was under the age of 16 at the time of the offence.
6. An offence under section 1(1) of the Indecency with Children Act 1960(f).
7. An offence under section 19 of the Firearms Act 1968(g), where the offence was committed in relation to a firearm within the meaning of section 57(1) of that Act and is triable either way.
8. An offence under section 4(2) of the Misuse of Drugs Act 1971, where the offence was committed in relation to a Class A drug and is triable either way.
9. An offence under section 4(3) of that Act, where the offence was committed in relation to a Class A drug and is triable either way.
10. An offence under section 5(3) of that Act, where the offence was committed in relation to a Class A drug and is triable either way.
11. An offence under section 1(1) of the Protection of Children Act 1978(h).
12. An offence under section 50(2) of the Customs and Excise Management Act 1979(i) in connection with a prohibition having effect by virtue of section 3(1) of the Misuse of Drugs Act 1971, where the offence was committed in relation to a Class A drug and is triable either way.
13. An offence under section 50(3) of the Customs and Excise Management Act 1979(j) in connection with a prohibition having effect by virtue of section 3(1) of the Misuse of Drugs Act 1971, where the offence was committed in relation to a Class A drug and is triable either way.
14. An offence under section 68(2) of the Customs and Excise Management Act 1979(k) in connection with a prohibition having effect by virtue of section 3(1) of the Misuse of Drugs Act 1971, where the offence was committed in relation to a Class A drug and is triable either way.

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- (a) 1933 c. 12. Section 1(1) was amended by section 64(1) and (3) of, and paragraph 1 of Schedule 3 and Schedule 5 to, the Children and Young Persons Act 1963 (c. 37), section 108(1)(b) of, and Part 3 of Schedule 4 to, the Children Act 1975 (c. 72), section 32(2) of the Magistrates' Courts Act 1980 (c. 43), section 45 of the Criminal Justice Act 1988 (c. 33) and paragraph 2 of Schedule 13 to the Children Act 1989 (c. 41).
 - (b) 1953 c. 14. Section 1(1) was amended by section 32(1) of the Criminal Law Act 1977 (c. 45), section 32(2) of the Magistrates' Courts Act 1980, section 46(1) and (3) of, and paragraph 16 of Schedule 8 to, the Criminal Justice Act 1988 and section 2(1) and (4) of the Offensive Weapons Act 1996 (c. 26).
 - (c) Section 1A(1) was inserted by section 142(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).
 - (d) 1956 c. 69. Section 14(1) was repealed by sections 139 and 140 of, and paragraph 11(a) of Schedule 6 and Schedule 7 to, the Sexual Offences Act 2003 (c. 42).
 - (e) Section 15(1) was repealed by sections 139 and 140 of, and paragraph 11(a) of Schedule 6 and Schedule 7 to, the Sexual Offences Act 2003.
 - (f) 1960 c. 33. Section 1(1) was repealed by sections 139 and 140 of, and paragraph 14 of Schedule 6 and Schedule 7 to, the Sexual Offences Act 2003.
 - (g) 1968 c. 27. Section 19 was amended by section 37(1) of the Anti-social Behaviour Act 2003 (c. 38).
 - (h) 1978 c. 37. Section 1(1) was amended by sections 84(1) and (2) and 168(3) of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33) and section 139 of, and paragraph 24 of Schedule 6 to, the Sexual Offences Act 2003.
 - (i) 1979 c. 2. Section 50(2) was amended by section 114(1) of the Police and Criminal Evidence Act 1984 (c. 60).
 - (j) Section 50(3) was amended by section 114(1) of the Police and Criminal Evidence Act 1984.
 - (k) Section 68(2) was amended by section 114(1) of the Police and Criminal Evidence Act 1984.

15. An offence under section 170(1) of the Customs and Excise Management Act 1979(**a**) in connection with a prohibition having effect by virtue of section 3(1) of the Misuse of Drugs Act 1971, where the offence was committed in relation to a Class A drug and is triable either way.

16. An offence under section 170(2) of the Customs and Excise Management Act 1979(**b**) in connection with a prohibition having effect by virtue of section 3(1) of the Misuse of Drugs Act 1971, where the offence was committed in relation to a Class A drug and is triable either way.

17. An offence under section 139(1) of the Criminal Justice Act 1988(**c**).

18. An offence under section 139A(1) of that Act(**d**).

19. An offence under section 139A(2) of that Act(**e**).

20. An offence under section 139AA(1) of that Act(**f**).

21. An offence under section 160(1) of that Act(**g**).

22. An offence under section 3(1) of the Sexual Offences (Amendment) Act 2000(**h**).

23. An offence under section 145(1) of the Nationality, Immigration and Asylum Act 2002(**i**).

24. An offence under section 145(2) of that Act(**j**).

25. An offence under section 145(3) of that Act(**k**).

26. An offence under section 3(1) of the Sexual Offences Act 2003(**l**), where the victim of the offence was under the age of 16 at the time of the offence.

27. An offence under section 4(1) and (5) of that Act, where the victim of the offence was under the age of 16 at the time of the offence.

28. An offence under section 7(1) of that Act.

29. An offence under section 8(1) and (3) of that Act.

30. An offence under section 9(1) and (3) of that Act.

31. An offence under section 10(1) and (3) of that Act.

32. An offence under section 11(1) of that Act.

33. An offence under section 12(1) of that Act.

34. An offence under section 14(1) of that Act.

(a) Section 170(1) was amended by section 114(1) of the Police and Criminal Evidence Act 1984.

(b) Section 170(2) was amended by section 114(1) of the Police and Criminal Evidence Act 1984.

(c) 1988 c. 33.

(d) Section 139A(1) was inserted by section 4(1) of the Offensive Weapons Act 1996.

(e) Section 139A(2) was inserted by section 4(1) of the Offensive Weapons Act 1996.

(f) Section 139AA(1) was inserted by section 142(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

(g) Section 160(1) was amended by sections 84(4)(a) and 168(3) of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994, section 139 of, and paragraph 29(1) and (3) of Schedule 6 to, the Sexual Offences Act 2003 and section 148(1) of, and paragraphs 22 and 24 of Part 2 of Schedule 26 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(h) 2000 c. 44. Section 3(1) was repealed by sections 139 and 140 of, and paragraph 45(1) and (4) of Schedule 6 and Schedule 7 to, the Sexual Offences Act 2003.

(i) 2002 c. 41. Section 145(1) was repealed by sections 139 and 140 of, and paragraph 48 of Schedule 6 and Schedule 7 to, the Sexual Offences Act 2003.

(j) Section 145(2) was repealed by sections 139 and 140 of, and paragraph 48 of Schedule 6 and Schedule 7 to, the Sexual Offences Act 2003.

(k) Section 145(3) was repealed by sections 139 and 140 of, and paragraph 48 of Schedule 6 and Schedule 7 to, the Sexual Offences Act 2003.

(l) 2003 c. 42.

35. An offence under section 15(1) of that Act(a).
36. An offence under section 16(1) of that Act.
37. An offence under section 17(1) of that Act.
38. An offence under section 18(1) of that Act.
39. An offence under section 19(1) of that Act.
40. An offence under section 25(1) and (4)(b) of that Act.
41. An offence under section 25(1) and (5) of that Act.
42. An offence under section 26(1) and (4)(b) of that Act.
43. An offence under section 26(1) and (5) of that Act.
44. An offence under section 47(1) and (4)(b) of that Act.
45. An offence under section 47(1) and (5) of that Act.
46. An offence under section 48(1) of that Act.
47. An offence under section 49(1) of that Act.
48. An offence under section 50(1) of that Act.
49. An offence under section 57(1) of that Act(b).
50. An offence under section 58(1) of that Act(c).
51. An offence under section 59(1) of that Act(d).
52. An offence under section 59A(1) of that Act.
53. An offence under section 62(1) of the Coroners and Justice Act 2009(e).

EXPLANATORY NOTE

(This note is not part of the Order)

Section 17(3) of the Criminal Justice and Courts Act 2015 (c. 2) (“the 2015 Act”) prohibits a constable from giving a simple caution if the offence is an either-way offence specified by order made by the Secretary of State, except in exceptional circumstances relating to the person or the offence. An either-way offence is an offence which, if committed by an adult, is triable either on indictment or summarily.

Article 3 of this Order provides for the offences listed in the Schedule to be specified for the purposes of section 17(3) of the 2015 Act.

Although some of the offences specified have been repealed they may still be cautionable where the offence was committed before the date of repeal and have been specified on that basis.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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- (a) Section 15(1) was amended by section 73 of, and paragraph 1 of Schedule 15 to, the Criminal Justice and Immigration Act 2008.
 - (b) Section 57(1) was repealed by section 109(1) and (2) of the Protection of Freedoms Act 2012 (c. 9).
 - (c) Section 58(1) was repealed by section 109(1) and (2) of the Protection of Freedoms Act 2012.
 - (d) Section 59(1) was repealed by section 109(1) and (2) of the Protection of Freedoms Act 2012.
 - (e) 2009 c. 25.

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