



# Criminal Justice and Courts Act 2015

## 2015 CHAPTER 2

### PART 1

#### CRIMINAL JUSTICE

##### *Cautions etc*

#### **17 Restrictions on use of cautions**

- (1) This section applies where, in England and Wales, a person aged 18 or over admits that he or she has committed an offence.
- (2) If the offence is an indictable-only offence, a constable may not give the person a caution except—
  - (a) in exceptional circumstances relating to the person or the offence, and
  - (b) with the consent of the Director of Public Prosecutions.
- (3) If the offence is an either-way offence specified by order made by the Secretary of State, a constable may not give the person a caution except in exceptional circumstances relating to the person or the offence.
- (4) If—
  - (a) the offence is a summary offence or an either-way offence not specified under subsection (3), and
  - (b) in the two years before the commission of the offence the person has been convicted of, or cautioned for, a similar offence,a constable may not give the person a caution except in exceptional circumstances relating to the person, the offence admitted or the previous offence.
- (5) It is for a police officer not below a rank specified by order made by the Secretary of State to determine—
  - (a) whether there are exceptional circumstances for the purposes of subsection (2), (3) or (4), and

- (b) whether a previous offence is similar to the offence admitted for the purposes of subsection (4)(b).
- (6) A determination under subsection (5) must be made in accordance with guidance issued by the Secretary of State.
- (7) The Secretary of State may by order amend this section so as to provide for a different period for the purposes of subsection (4)(b).
- (8) For the purposes of this section—
  - (a) “caution” does not include a conditional caution under Part 3 of the Criminal Justice Act 2003, but
  - (b) a person has been “cautioned for” an offence if he or she has been given a caution, a conditional caution or a youth caution or youth conditional caution under Chapter 1 of Part 4 of the Crime and Disorder Act 1998.
- (9) In this section—
  - “either-way offence” means an offence triable either way;
  - “indictable-only offence” means an offence which, if committed by an adult, is triable only on indictment.
- (10) This section applies whether the offence admitted was committed before or after the time when this section comes into force.

## **18 Restrictions on use of cautions: supplementary**

- (1) An order under section 17 may make different provision for different purposes.
- (2) An order under section 17 must be made by statutory instrument.
- (3) A statutory instrument containing an order under section 17(3) (specification of either-way offences) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) An order under section 17(7) (change to period in section 17(4)(b)) may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) In section 37B of the Police and Criminal Evidence Act 1984 (consultation with the Director of Public Prosecutions), in subsection (7), after “such a caution” insert “(whether because of section 17 of the Criminal Justice and Courts Act 2015 or for any other reason)”.

## **19 Alternatives to prosecution: rehabilitation of offenders in Scotland**

In Schedule 3 to the Rehabilitation of Offenders Act 1974 (protection for spent alternatives to prosecution: Scotland), at the end insert—

- “9 (1) The powers conferred on the Scottish Ministers by—
- (a) paragraph 6, and
  - (b) section 7(4), as applied by paragraph 8,
- may be exercised to make provision relating to reserved matters and are not subject to the restrictions imposed by section 29(2)(b) or (c) of, or Schedule 4 to, the Scotland Act 1998.

(2) In this paragraph, “reserved matters” has the same meaning as in the Scotland Act 1998.”