



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 3

#### SENTENCING AND PUNISHMENT OF OFFENDERS

### CHAPTER 7

#### OUT OF COURT DISPOSALS

#### *Cautions*

#### **133 Conditional cautions: involvement of prosecutors**

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 22(3A) (conditions that may be attached to a conditional caution) for “by a relevant prosecutor” substitute “in the condition”.
- (3) In section 23(2) (relevant prosecutor must decide there is sufficient evidence to prosecute and that a conditional caution should be given) after “a relevant prosecutor” insert “or the authorised person”.
- (4) In section 23A(5) (relevant prosecutor must specify amount of financial penalty and how it is to be paid etc) for “a relevant prosecutor must also” substitute “the condition must”.
- (5) In section 23B (variation of conditions by relevant prosecutor) after “A relevant prosecutor” insert “or an authorised person”.
- (6) In section 25 (code of practice) in subsection (2)(ga) (Secretary of State’s code of practice may include provision about what a relevant prosecutor may provide under section 23A(5)(b)) for “by a relevant prosecutor” substitute “in a condition”.

**134 Conditional cautions: removal etc of certain foreign offenders**

In section 22 of the Criminal Justice Act 2003 (conditional cautions)—

- (a) in subsection (3) (both as originally enacted and as substituted by section 17 of the Police and Justice Act 2006) (conditions attached to conditional cautions to have certain objects) for “such a caution” substitute “any conditional caution”, and
- (b) after subsection (3C) insert—

“(3D) A conditional caution given to a relevant foreign offender may have conditions attached to it that have one or more of the objects mentioned in subsection (3E) (whether or not in addition to conditions with one or more of the objects mentioned in subsection (3)).

(3E) The objects are—

- (a) bringing about the departure of the relevant foreign offender from the United Kingdom;
- (b) ensuring that the relevant foreign offender does not return to the United Kingdom for a period of time.

(3F) If a relevant foreign offender is given a conditional caution with a condition attached to it with the object of ensuring that the offender does not return to the United Kingdom for a period of time, the expiry of that period does not of itself give rise to any right on the part of the offender to return to the United Kingdom.

(3G) In this section “relevant foreign offender” means—

- (a) an offender directions for whose removal from the United Kingdom have been, or may be, given under—
  - (i) Schedule 2 to the Immigration Act 1971, or
  - (ii) section 10 of the Immigration and Asylum Act 1999,or
- (b) an offender against whom a deportation order under section 5 of the Immigration Act 1971 is in force.”