



2011 CHAPTER 24

PART 6

ALTERNATIVES TO PROSECUTION

CHAPTER 2

CONDITIONAL CAUTIONS

Arrest for failure to comply

75.—(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, the constable may arrest the offender 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 the person 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 Article 32A of PACE (bail elsewhere than at police station) as applied by section 76, 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 Article 32D or 47A of PACE (power of arrest for failure to answer to police bail) as applied by section 76.

(4) Where the offender is released under subsection (2)(b), the custody officer must inform the offender that the offender is being released to enable a decision to be made as to whether the offender 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 to enable that person to be dealt with in accordance with that subsection.

If the person is not in a fit state to enable that person to be so dealt with, or to enable that power to be exercised, that person may be kept in police detention until that person is.

(6) The power under subsection (5) includes power to keep the person in police detention if it is necessary to do so for the purpose of investigating whether the person 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 the person is liable to be kept in detention in relation to that other matter.

(9) In this Chapter—

“PACE” means the [Police and Criminal Evidence \(Northern Ireland\) Order 1989 \(NI 12\)](#);

“police detention” has the same meaning as in PACE (see Article 2(3) of PACE).