

Status: This version of this provision is prospective.

Changes to legislation: Police, Crime, Sentencing and Courts Act 2022, Section 107 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 6

CAUTIONS

Diversionary cautions

PROSPECTIVE

107 Application of Police and Criminal Evidence Act 1984

- (1) In the case of a person arrested under section 106, the provisions of the 1984 Act specified in subsection (2) apply, with the modifications specified in subsection (3) and with such further modifications as are necessary, as they apply in the case of a person arrested for an offence.
- (2) The provisions are—
 - (a) section 30 (arrest elsewhere than at police station);
 - (b) sections 30A to 30D (bail elsewhere than at police station);
 - (c) section 31 (arrest for further offence);
 - (d) section 34(1) to (5E) (limitations on police detention);
 - (e) section 36 (custody officers at police stations);
 - (f) section 37(4) to (6C) (record of grounds for detention);
 - (g) section 38 (duties of custody officer after charge);
 - (h) section 39 (responsibilities in relation to persons detained);
 - (i) section 55A (x-rays and ultrasound scans).
- (3) The modifications are—
 - (a) in section 30CA, omit subsections (4A) to (4D);

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- (b) in section 30CA, in subsection (5), in paragraph (a) of the definition of “relevant officer”, for the reference to being involved in the investigation of the relevant offence substitute a reference to being involved—
 - (i) in the investigation of the offence in respect of which the person was given the diversionary caution, or
 - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the diversionary caution;
 - (c) in section 36(5) and (7), for the references to being involved in the investigation of an offence for which the person is in police detention substitute references to being involved—
 - (i) in the investigation of the offence in respect of which the person was given the diversionary caution, or
 - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the diversionary caution;
 - (d) in section 38(1)(a)(iii) and (iv), for “arrested for” substitute “charged with”;
 - (e) in section 39(2) and (3), for the references to an offence substitute references to a failure to comply with conditions attached to the diversionary caution.
- (4) Section 40 of the 1984 Act (review of police detention) applies to a person in police detention by virtue of section 106 above as it applies to a person in police detention in connection with the investigation of an offence, but with the following modifications—
- (a) omit subsections (8) and (8A);
 - (b) in subsection (9), for the reference to section 37(9) or 37D(5) substitute a reference to the second sentence of section 106(6) above.
- (5) The following provisions of the 1984 Act apply to a person released on bail under section 106(3)(a) above as they apply to a person released on bail under section 37 of that Act—
- (a) section 46A (power of arrest for failure to answer to police bail);
 - (b) section 47 (bail after arrest), except subsections (4D) and (4E).
- (6) Section 54 of the 1984 Act (searches of detained persons) applies in the case of a person who falls within section 106(4) above and is detained in a police station under that section as it applies in the case of a person who falls within section 34(7) of that Act and is detained at a police station under section 37.
- (7) Section 54A of the 1984 Act (searches and examination to ascertain identity) applies with the following modifications in the case of a person who is detained in a police station under section 106 above—
- (a) in subsections (1)(a) and (12), after “as a person involved in the commission of an offence” insert “or as having failed to comply with any of the conditions attached to the person’s diversionary caution”;
 - (b) in subsection (9)(a), after “the investigation of an offence” insert “, the investigation of whether the person in question has failed to comply with any of the conditions attached to the person’s diversionary caution”.

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Commencement Information

II S. 107 not in force at Royal Assent, see [s. 208\(1\)](#)

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Changes and effects yet to be applied to :

- s. 107 applied by 1998 c. 37, s. 66E(5) (as substituted) by [2022 c. 32 Sch. 11 para. 21](#)