

## CHAPTER 5

# Treatment, charging and bail of detainees

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### Duties of custody officer before charge p 146

*At the para beginning, Section 37(7), substitute (a) with:*

- (a) be released without charge and on bail, or kept in police detention for the purpose of enabling the Director of Public Prosecutions (DPP) to make a decision about charging or cautioning him;
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### Conditional caution p 147

*Replace second para under this heading with -*

As a result of an amendment by the Police and Justice Act 2006, the conditions which may be attached to such a caution are those which have one or more of the following objects:

- (a) facilitating the rehabilitation of the offender;
- (b) ensuring that the offender makes reparation for his offence;
- (c) punishing the offender.

The conditions include

- (i) a condition that the offender pays a financial penalty (but only in respect of offences or description of offences prescribed by the Secretary of State which must not exceed one quarter of the maximum fine to which the offender would have been liable on summary conviction or £250, whichever is the smaller), or
- (ii) a condition that the offender attend at a specified place at specified times (but not for more than twenty hours in total excluding attendances required for the purpose of rehabilitation).

Police and Justice Act 2006, s 18 inserted a s 24A into the CJA 2003. Section 24A provides that where a constable has reasonable grounds for believing that the offender has failed, without reasonable excuse, to comply with any of the conditions attached to a conditional caution, he may arrest him without warrant (s 24A(1)). A person so arrested 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 he should be charged with the offence (in which case the custody officer must inform him that he is being released pending such a decision); or
- (c) released without charge and without bail (with or without any variation in the conditions attached to the caution) (s 24A(2)).

The requirements of s 24A(2) also apply –

- (i) where a person who has been released on bail under (b) above, returns to a police station to answer bail or is otherwise in police detention at a police station;
- (ii) where a person who, having been released on bail elsewhere than at a police station attends to answer that bail or is otherwise in police detention; and
- (iii) where a person has been arrested for failure to answer to police bail.

A person arrested under s 24A, or any other person to whom s 24A(2) applies, may be kept in police detention to enable him to be dealt with in accordance with s 24A(2) or, where applicable, to enable a custody officer to appoint a different or additional time for answering to police bail. Where a person is not in a fit state to be so dealt with, he may be kept in police detention until he is. Such a person may also be detained if it is necessary to do so for the purpose of investigating whether he has failed, without reasonable excuse, to comply with any of the conditions attached to his conditional caution.

Section 24A(2) does not require a person who fails within (i) or (ii) above and is in police detention in relation to another matter, to be so released if he is liable to be kept in police detention in relation to that other matter.

CJA 2003, s 24B, inserted by P&JA 2006. s 18 provides that certain provisions in PACE (those dealing with duties of a custody officer, records kept by a custody officer, duties and responsibilities of custody officers, x-rays and ultrasound scans) apply, with modifications taking account of the above measures, to offenders arrested for suspected breach of a conditional caution as they do to offenders arrested in respect of an offence.

CJA 2005, ss 24A and 24B are not yet in force.

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### **Drug testing p 148**

*Follow-up assessment on p 150.* These provisions are now in force. [SI 2007/562]

*Attendance at assessment p 150*

The provisions of the Drugs Act 2005, s 14 are now in force [SI 2007/562]

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### ***Conditional bail p 173***

*Insert the following text after the first two paragraphs under this heading.*

Police and Justice Act 2006, s 46 amends PACE, s 47 so as to create a special class of 'live link bail' which allows the police to grant bail subject to a duty to appear at a police station for the purpose of a live link hearing (see p 000). A new s 46ZA of PACE provides that a person answering live link bail is not to be treated as being in

police detention (with the qualification that the accused is to be treated as if he had been arrested for an charged with the offence for which he was given live link bail if he informs the police that he does not consent to a live link direction; a live link direction is not available; or the court determines not to give a live link direction).  
**[Not yet in force other than in the local justice area of Lambeth and Southwark]**

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***Arrest of person for failure to answer to police bail p 174***

*Insert as final para under this heading.*

Police and Justice Act 2006, s 46 inserted a subs (1ZA) 46ZA into PACE, s 46A which has the effect of extending this power to cover the case where an accused attends a police station in answer to live link bail, but leaves the police station before the court has begun to consider giving a live link direction without informing a constable that he does not intend to give consent to the direction. **[Not yet in force other than in the local justice area of Lambeth and Southwark]**

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**Bail by a court p 175**

The reference at the end of para 3 to the effect that the provisions outlined are not in force should be deleted.