

CRIMINAL JUSTICE ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Conditional Cautions

Section 22: Conditional cautions

160. *Section 22* defines a conditional caution and provides that it may be given to an adult offender if the five requirements in *section 23* are met. The conditions which may be imposed are restricted to those aimed at reparation for the offence, or at the rehabilitation of the offender. A conditional caution may be given by an authorised person as defined in subsection (4).

Section 23: The five requirements

161. *Section 23* sets out the requirements which need to be met for a conditional caution to be given. The requirements are that there is evidence against the offender; that a 'relevant prosecutor' (as defined in *section 27*) considers that the evidence would be sufficient to charge him or her and that a conditional caution should be given; that the offender admits the offence; that the offender has been made aware of what the caution (and failure to comply with it) would mean; and that he or she signs a document containing details of the offence, the admission, the offender's consent to the caution, and the conditions imposed.

Section 24: Failure to comply with the conditions

162. *Section 24* provides that if the offender fails without reasonable excuse to satisfy the conditions attached to the conditional caution he or she may be prosecuted for the offence. If proceedings are commenced the document referred to in *Section 23* is admissible in evidence, and the conditional caution ceases to have effect.

Section 25: Code of practice

163. This section makes provision for the Home Secretary, with the consent of the Attorney General, to publish a Code of Practice setting out the criteria for giving conditional cautions, how they are to be given and who may give them, the conditions which may be imposed and for what period, and arrangements for monitoring compliance.
164. The Home Secretary is required to publish the Code in draft and to consider any representations regarding it. The completed Code must then be laid before Parliament.

Section 26: Assistance of National Probation Service

165. *Section 26* amends the Criminal Justice and Court Services Act 2000 to extend the statutory duties of the National Probation Service to cover offenders who are given (or being considered for) a conditional caution.

*These notes refer to the Criminal Justice Act 2003 (c.44)
which received Royal Assent on 20th November 2003*

Section 27: Interpretation of Part 3

166. *Section 27* defines various terms used in this Part of the Act.