

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

SUMMARY

Part 4: Other criminal justice provisions

31. [Section 48](#) and Schedule 9 extend the adult conditional caution scheme, provided for in Part 3 of the 2003 Act, to young offenders. The provisions allow for a caution with specific conditions attached to it to be given where there is sufficient evidence to charge a suspect with an offence which he or she admits, and the suspect agrees to the caution. It would be for the prosecutor to decide whether a conditional caution was appropriate, and in most cases for the police to administer it. If the suspect failed to comply with the conditions, he or she would be liable to be prosecuted for the offence. The Act provides for the publication of a Code of Practice for youth conditional cautions.
32. [Section 49](#) and Schedule 10 amend the Rehabilitation of Offenders Act 1974 (the 1974 Act) to bring warnings, reprimands, simple cautions and conditional cautions within the ambit of that Act. Once such warnings and cautions become “spent” an ex-offender is not obliged to declare them, for example, when applying for a job (save in excepted circumstances). Section 50 makes consequential amendments to Part 5 of the Police Act 1997 (the 1997 Act) which provides the statutory framework for the Criminal Records Bureau (CRB).
33. [Section 51](#) and Schedule 11 make provision in the Bail Act 1976 (the 1976 Act) for the electronic monitoring of compliance with bail conditions of defendants aged 17 or over. Schedule 11 also amends the existing provision in the Bail Act 1976 for the electronic monitoring on bail of defendants aged under 17.
34. [Section 52](#) and Schedule 12 amend the 1976 Act to restrict the grounds on which a person charged with an imprisonable summary offence or a relevant low-level criminal damage offence may be refused bail.
35. [Section 53](#) and Schedule 13 amend Schedule 3 to the 2003 Act which revised the procedure to be followed by magistrates’ courts in determining whether cases triable either way should be tried summarily or on indictment, and provides for the sending to the Crown Court of those cases which need to go there. The new procedures were designed to enable cases to be dealt with in the level of court which is appropriate to their seriousness, and to ensure that they reach that court as quickly as possible. The amendments to Schedule 3 restore the power of magistrates’ courts to commit cases tried summarily to the Crown Court for sentence.
36. [Section 54](#) creates a presumption that, if defendants fail to attend for trial without good cause, magistrates will use their powers to try them in their absence and sentence them if convicted.

These notes refer to the Criminal Justice and Immigration Act 2008 (c.4) which received Royal Assent on 8 May 2008

37. **Section 55** extends the range of hearings and proceedings in magistrates' courts where the Crown Prosecution Service (CPS) may be represented by a non-lawyer known as an Associate Prosecutor (formerly designated caseworker) rather than a Crown Prosecutor.
38. **Sections 56 to 58** amend the criminal legal aid provisions in the Access to Justice Act 1999 to allow the right to representation to be applied for and granted provisionally before the point of charge; allow HMCS staff processing means tested applications to access Her Majesty's Revenue and Customs (HMRC) and DWP records for the purposes of assessing financial eligibility; and widen the powers to pilot schemes relating to the grant of legal aid.
39. **Section 59** extends the existing powers of the Serious Fraud Office (SFO) in section 2 of the Criminal Justice Act 1987 to the vetting stage in any case involving bribery or corruption of overseas officials.
40. **Section 60** amends the defence statement requirements in the Criminal Procedure and Investigations Act 1996 to require defendants to set out not only the factual matters on which they take issue with the prosecution but also particulars of any other factual matters on which they intend to rely. Section 11 of the 1996 Act is amended to provide for the usual sanctions (comment and inferences) to be available for breach of these requirements
41. **Section 61** alters the scheme, provided for in section 133 of the Criminal Justice Act 1988 (the 1988 Act), for the award of compensation for miscarriages of justice. The changes impose a time limit for making applications for compensation, place upper limits on the amount of compensation that may be awarded, restrict the compensation that may be paid for loss of earnings, and enable the Assessor to make deductions from the total level of compensation in the light of any contributory conduct or any previous convictions held by the applicant.
42. **Section 62** repeals section 8 of the Criminal Justice (Terrorism and Conspiracy) Act 1998 which requires the Secretary of State to lay before Parliament an annual report on the workings of that Act.