Draft Order laid before Parliament under section 330(5) of the Criminal Justice Act 2003 (c. 44), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. XXX

CRIMINAL LAW, ENGLAND AND WALES

The Criminal Justice Act 2003 (Conditional Cautions: Code of Practice) Order 2009

Made - - - -	*XX 2009*
Coming into force - -	*XX 2009*

The Secretary of State makes the following Order in exercise of the power conferred by section 25(5) of the Criminal Justice Act 2003(**a**) ("the Act") as applied by section 25(7) of the Act (revised code of practice).

The Secretary of State has prepared a revised code of practice in relation to conditional cautions under section 25(6) of the Act.

In accordance with section 25(3) of the Act, he has (with the consent of the Attorney General) published a draft of the revised code of practice, considered representations made to him about the draft, and (with the consent of the Attorney General) amended the draft accordingly.

In accordance with section 25(4) of the Act, he has laid the revised code of practice before each House of Parliament.

In accordance with section 330(5) of the Act, a draft of this instrument was laid before, and approved by a resolution of, each House of Parliament.

Citation and commencement

1. This Order may be cited as the Criminal Justice Act 2003 (Conditional Cautions: Code of Practice) Order 2009.

Code of Practice

2. The revised code of practice entitled "Revised Code of Practice for Conditional Cautions - Adults" laid before Parliament on 8 July 2009 shall come into force on the day after the day on which this Order comes into force.

Signed by the authority of the Secretary of State

(**a**) 2003 c. 44.

Parliamentary Under Secretary of State
Date Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force a revised code of practice in relation to conditional cautions ("the Revised Code"). The Revised Code is made under section 25(6) of the Criminal Justice Act 2003 ("the 2003 Act").

The most significant revisions made to the original code by the Revised Code are to reflect the amendments to the conditional caution scheme made by the Police and Justice Act 2006 described below. In addition, amendments have been made to remove the requirement that an admission be made by an offender in a cautioned interview under the Police and Criminal Evidence Act 1984 before a conditional caution can be offered, and to include a number of additional safeguards to those provided in the original code.

Conditional cautions are cautions to which specified conditions are attached, and are provided for by Part 3 of the 2003 Act. A conditional caution may be given for reasons including that a prosecutor considers there is sufficient evidence to prosecute the offender and the offender admits the offence and agrees to a conditional caution being imposed.

Section 17 of the Police and Justice Act 2006 amended Part 3 of the 2003 Act to broaden the circumstances in which a conditional caution may be given. In particular, it provides that a conditional caution may include conditions which have the object of punishing the offender and it permits the imposition of a financial penalty.

Section 18 of the Police and Justice Act 2006 amended Part 3 of the 2003 Act to insert a new section 24A, which provides the police with powers of arrest and detention if the offender is suspected of non-compliance with a conditional caution.

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