

CAYMAN ISLANDS



CAUTIONS (ADULT) LAW, 2017

(Law 5 of 2017)

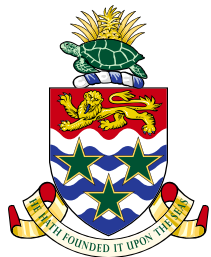
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CAUTIONS (ADULT) LAW, 2017

(Law 5 of 2017)

A LAW TO MAKE PROVISION FOR THE ADMINISTERING OF CAUTIONS IN RELATION TO ADULTS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Law may be cited as the *Cautions (Adult) Law, 2017*.
- (2) This Law shall come into force on such date as may be appointed by Order made by Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

Interpretation

2. In this Law —

“**caution record**” means a record kept by the Royal Cayman Islands Police Service containing a person’s information in relation to a caution for an offence;”;

“**suspect**” means a person eighteen years or older who is alleged to have committed an offence or who has been charged with an offence.

Cautioning of suspects

3. Notwithstanding section 82(2) of the *Police Law (2014 Revision)* and subject to sections 4 and 5 of this Law, where a suspect has behaved in a manner that amounts to an offence and the suspect has admitted to so behaving, that suspect may be cautioned in accordance with this Law instead of being charged with, or prosecuted for the offence constituted by that behaviour.

Qualifying conditions for caution

4. A suspect may be cautioned for an offence if —
- (a) there is sufficient evidence to provide a realistic prospect of conviction for the offence;
 - (b) the suspect has unequivocally admitted that the suspect is guilty of the offence and agrees to be cautioned for it;
 - (c) the offence attracts a maximum custodial sentence of less than four years or is an offence specified in the Schedule; and
 - (d) in the opinion of —
 - (i) a police officer of the rank of Inspector or above; or
 - (ii) in the opinion of the Director of Public Prosecutions, where a charge has already been brought for the offence,the circumstances of the suspect or the offence are such that the matter is suitable for a caution and the suspect is not ineligible for a caution under section 5.

Suspects not eligible for a caution

5. A suspect may not be cautioned for an offence if at the time of the alleged commission of the offence, the suspect —
- (a) had in the preceding three years been convicted or cautioned for a similar offence;
 - (b) was on police or court bail; or
 - (c) was —
 - (i) serving a sentence of imprisonment;
 - (ii) subject to recall to prison on licence;
 - (iii) subject to a non-custodial sentence under the provisions of the *Alternative Sentencing Law (2008 Revision)*; or
 - (iv) subject to proceedings in the Drug Court.

Form of a caution

6. (1) A caution shall take the form of a written document that is —
- (a) read to the suspect by a police officer; and



- (b) signed by the suspect and the police officer.
- (2) The written document shall contain —
 - (a) the name, date of birth, address and occupation of the suspect;
 - (b) the particulars of the offence to which the suspect admits, including the date, time and location of the offence and the name of the officer reporting the offence;
 - (c) a notice to the suspect stating that —
 - (i) the caution will be recorded by the police and may be disclosed as part of the suspect's caution record;
 - (ii) if the suspect is subsequently convicted of any offence, that the existence of the caution may be revealed to the court dealing with the suspect for any subsequent offence; and
 - (iii) a court may take a caution into account when dealing with the suspect for any subsequent offence;
 - (d) the name of the police officer who authorised the caution under section 4(d) and the name of the police officer administering the caution;
 - (e) the name of the attorney who represented the suspect at the time the suspect was cautioned; and
 - (f) an acknowledgement by the suspect that —
 - (i) the suspect committed the offence specified in the document;
 - (ii) the suspect understands the contents of the caution document and the notice set out therein; and
 - (iii) the suspect has agreed to be cautioned for the offence.

Record of cautions

- 7. (1) Where a caution has been administered to a suspect, the police officer shall retain the original written document and shall provide the suspect with a copy.
- (2) A caution shall be recorded in the prescribed register of cautions and the fact that a caution has been administered to a suspect shall form a part of that suspect's caution record.

Effect of a caution in court proceedings

- 8. Where a person who has been administered a caution is subsequently convicted of an offence, the court may take the caution into account when dealing with the person for the subsequent offence.

Effect of a caution and disqualification under other laws

9. Where a Law disqualifies or potentially disqualifies a person convicted of an offence from conducting specified activities or from holding specified positions, the Law shall apply to a person to whom a caution has been administered in the same manner as if that person had been convicted of the offence, unless a provision to the contrary appears in that Law.

Expungement of a record of caution

10. (1) Where a person has been administered a caution in relation to an offence, upon the expiration of three years from the date of the administering of that caution, that person's caution record in relation to that offence shall be treated as expunged.
- (2) The provisions of Part 4 of the *Criminal Records (Spent Convictions) Law, 2016 [Law 42 of 2016]* (Effect of Expungement) shall apply *mutatis mutandis* to the expungement of a caution record.

Written policy and Standing Orders

11. (1) The Commissioner of Police shall, with the approval of the Director of Public Prosecutions, prepare a written policy in relation to the administration of cautions.
- (2) The Commissioner of Police shall issue Standing Orders to the members of the Royal Cayman Islands Police Service in relation to the administration of cautions.
- (3) No caution shall be administered prior to preparation of the policy under subsection (1) and the issuance of the Orders under subsection (2).

Annual Report

12. The Commissioner of Police shall cause to be laid before the Legislative Assembly, within three months of the end of each year, a report specifying the number of persons who have been administered with a caution and the nature of the matters for which the cautions were administered.

Amendment of Schedule

13. (1) The Cabinet may, by Order, amend the Schedule.
- (2) An Order made pursuant to subsection (1) shall be subject to negative resolution of the Legislative Assembly.



Regulations

- 14.** The Cabinet may make Regulations generally for administering this Law by prescribing anything required or permitted by this law to be prescribed, or is necessary or convenient to be prescribed in order to give effect to the objects of this Law.

SCHEDULE

(section 4)

List of offences which may be dealt with by way of a caution

1. Theft (where the value of goods stolen does not exceed \$5,000) pursuant to section 241(a) of the *Penal Code (2013 Revision)*;
2. Handling stolen goods (where the value of goods stolen does not exceed \$5,000) pursuant to section 260 of the *Penal Code (2013 Revision)*;
3. Making off without payment pursuant to section 254 of the *Penal Code (2013 Revision)*;
4. Criminal damage (where the value of the damage does not exceed \$3,000) pursuant to section 267(a) of the *Penal Code (2013 Revision)*;
5. Assault occasioning actual bodily harm pursuant to section 216 of the *Penal Code (2013 Revision)*;
6. Possession or consumption of a controlled drug that is not a hard drug pursuant to section 3(1)(k) or (l) of the *Misuse of Drugs Law (2014 Revision)*;
7. Causing fear or provocation of violence by night pursuant to section 88 of the *Penal Code (2013 Revision)*;
8. Intentionally causing harassment, alarm or distress by night pursuant to section 88A of the *Penal Code (2013 Revision)*;
9. Causing harassment, alarm or distress by night pursuant to section 88B of the *Penal Code (2013 Revision)*;
10. Being an idle and disorderly person pursuant to section 158 of the *Penal Code (2013 Revision)*.

Passed by the Legislative Assembly the 27th day of March, 2017.

Juliana O'Connor-Connolly
Speaker.

Zena Merren-Chin
Clerk of the Legislative Assembly

