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STATUTORY INSTRUMENTS

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**1989 No. 1341**

**The Police and Criminal Evidence  
(Northern Ireland) Order 1989**

**PART V**

**DETENTION**

*Detention—conditions and duration*

**Warrants of further detention**

44.—(1) Where, on a complaint made in writing by a constable and substantiated on oath, a magistrates' court is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the complaint relates is justified, it may issue a warrant of further detention authorising the keeping of that person in police detention.

(2) A court may not hear a complaint under paragraph (1) unless the person to whom the complaint relates—

- (a) has been furnished with a copy of the complaint; and
- (b) has been brought before the court for the hearing.

(3) The person to whom the complaint relates shall be entitled to be legally represented at the hearing and, if he is not so represented but wishes to be so represented—

- (a) the court shall adjourn the hearing to enable him to obtain representation; and
- (b) he may be kept in police detention during the adjournment.

(4) A person's further detention is only justified for the purposes of this Article or Article 45 if—

- (a) his detention without charge is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him;
- (b) an offence for which he is under arrest is a serious arrestable offence; and
- (c) the investigation is being conducted diligently and expeditiously.

(5) Subject to paragraph (7), a complaint under paragraph (1) may be made—

- (a) at any time before the expiry of 36 hours after the relevant time; or
- (b) in a case where—

- (i) it is not practicable for the magistrates' court to which the complaint will be made to sit at the expiry of 36 hours after the relevant time; but

- (ii) the court will sit during the 6 hours following the end of that period, at any time before the expiry of the said 6 hours.

(6) In a case to which paragraph (5)(b) applies—

- (a) the person to whom the complaint relates may be kept in police detention until the complaint is heard; and
  - (b) the custody officer shall make a note in that person's custody record—
    - (i) of the fact that he was kept in police detention for more than 36 hours after the relevant time; and
    - (ii) of the reason why he was so kept.
- (7) If—
- (a) a complaint under paragraph (1) is made after the expiry of 36 hours after the relevant time; and
  - (b) it appears to the magistrates' court that it would have been reasonable for the police to make it before the expiry of that period,
- the court shall dismiss the complaint.
- (8) Where on a complaint under paragraph (1) a magistrates' court is not satisfied that there are reasonable grounds for believing that the further detention of the person to whom the complaint relates is justified, it shall be its duty—
- (a) to refuse to issue a warrant of further detention; or
  - (b) to adjourn the hearing of it until a time not later than 36 hours after the relevant time.
- (9) The person to whom the complaint relates may be kept in police detention during the adjournment.
- (10) A warrant of further detention shall—
- (a) state the time at which it is issued;
  - (b) authorise the keeping in police detention of the person to whom it relates for the period stated in it.
- (11) Subject to paragraph (12), the period stated in a warrant of further detention shall be such period as the magistrates' court thinks fit, having regard to the evidence before it.
- (12) The period shall not be longer than 36 hours.
- (13) A complaint under paragraph (1) shall state—
- (a) the nature of the offence for which the person to whom the complaint relates has been arrested;
  - (b) the general nature of the evidence on which that person was arrested;
  - (c) what inquiries relating to the offence have been made by the police and what further inquiries are proposed by them;
  - (d) the reasons for believing the continued detention of that person to be necessary for the purposes of such further inquiries.
- (14) Where a complaint under paragraph (1) is dismissed, the person to whom the complaint relates shall forthwith be charged or, subject to paragraph (15), released, either on bail or without bail.
- (15) A person need not be released under paragraph (14)—
- (a) before the expiry of 24 hours after the relevant time; or
  - (b) before the expiry of any longer period for which his continued detention is or has been authorised under Article 43.
- (16) Where a complaint under paragraph (1) is dismissed, no further complaint shall be made under that paragraph in respect of the person to whom the dismissal relates, unless supported by evidence which has come to light since the dismissal.

(17) Where a warrant of further detention is issued, the person to whom it relates shall be released from police detention, either on bail or without bail, upon or before the expiry of the warrant unless he is charged.

(18) A person released under paragraph (17) shall not be re-arrested without a warrant for the offence for which he was previously arrested unless new evidence justifying a further arrest has come to light since his release.

(19) A magistrates' court hearing a complaint under this Article shall not sit in open court.