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STATUTORY INSTRUMENTS

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**1989 No. 1341**

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

**PART II**

**POWERS TO STOP AND SEARCH**

**Power of constable to stop and search persons, vehicles etc.**

- 3.—(1) A constable may exercise any power conferred by this Article—
- (a) in any place to which at the time when he proposes to exercise the power the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; or
  - (b) in any other place to which people have ready access at the time when he proposes to exercise the power but which is not a dwelling.
- (2) Subject to paragraphs (3) to (5), a constable—
- (a) may search—
    - (i) any person or vehicle;
    - (ii) anything which is in or on a vehicle,for stolen or prohibited articles or any article to which paragraph (9) applies; and
  - (b) may detain a person or vehicle for the purpose of such a search.
- (3) This Article does not give a constable power to search a person or vehicle or anything in or on a vehicle unless he has reasonable grounds for suspecting that he will find stolen or prohibited articles or any article to which paragraph (9) applies.
- (4) If a person is in a garden or yard occupied with and used for the purposes of a dwelling or on other land so occupied and used, a constable may not search him in the exercise of the power conferred by this Article unless the constable has reasonable grounds for believing—
- (a) that he does not reside in the dwelling; and
  - (b) that he is not in the place in question with the express or implied permission of a person who resides in the dwelling.
- (5) If a vehicle is in a garden or yard occupied with and used for the purposes of a dwelling or on other land so occupied and used, a constable may not search the vehicle or anything in or on it in the exercise of the power conferred by this Article unless he has reasonable grounds for believing—
- (a) that the person in charge of the vehicle does not reside in the dwelling; and
  - (b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.
- (6) If in the course of such a search a constable discovers an article which he has reasonable grounds for suspecting to be a stolen or prohibited article or an article to which paragraph (9) applies, he may seize it.

- (7) An article is prohibited for the purposes of this Part if it is—
- (a) an offensive weapon; or
  - (b) an article—
    - (i) made or adapted for use in the course of or in connection with an offence to which this sub-paragraph applies; or
    - (ii) intended by the person having it with him for such use by him or by some other person.
- (8) The offences to which sub-paragraph (b) of paragraph (7) applies are—
- (a) burglary;
  - (b) theft;
  - (c) offences under section 12(2) of the Theft Act (Northern Ireland) 1969<sup>(1)</sup> (taking of vehicles and other conveyances without authority);
  - (d) offences under section 15 of that Act (obtaining property by deception); and
  - (e) offences under Article 172 of the Road Traffic (Northern Ireland) Order 1981<sup>(2)</sup> (taking of motor vehicle, etc. without owner’s consent or authority).
- (9) This paragraph applies to any article in relation to which a person has committed, or is committing or is going to commit an offence under section 139 of the Criminal Justice Act 1988 (offence of having article with blade or point in public place)<sup>(3)</sup>.
- (10) In this Part “offensive weapon” means any article—
- (a) made or adapted for use for causing injury to persons; or
  - (b) intended by the person having it with him for such use by him or by some other person.

#### **Provisions relating to search under Article 3 and other powers**

- 4.—(1) A constable who detains a person or vehicle in the exercise—
- (a) of the power conferred by Article 3; or
  - (b) of any other power—
    - (i) to search a person without first arresting him; or
    - (ii) to search a vehicle without making an arrest,
- need not conduct a search if it appears to him subsequently—
- (i) that no search is required; or
  - (ii) that a search is impracticable.
- (2) If a constable contemplates a search, other than a search of an unattended vehicle, in the exercise—
- (a) of the power conferred by Article 3; or
  - (b) of any other power, except a power conferred by any of the provisions referred to in paragraph (3)—
    - (i) to search a person without first arresting him; or
    - (ii) to search a vehicle without making an arrest,
- it shall be his duty, subject to paragraph (5), to take reasonable steps before he commences the search to bring to the attention of the appropriate person—

(1) 1969 c. 16 (N.I.)

(2) 1981 NI 1

(3) 1988 c. 33

- (i) if the constable is not in uniform, documentary evidence that he is a constable; and
  - (ii) whether he is in uniform or not, the matters specified in paragraph (4);
- and the constable shall not commence the search until he has performed that duty.
- (3) The provisions referred to for the purposes of paragraph (2)(b) are—
    - (a) Article 8,
    - (b) section 15, section 16 (in so far as the powers under that section are exercisable by a constable) and section 20 of the Northern Ireland (Emergency Provisions) Act 1978(4), and
    - (c) section 27(2) of the Aviation Security Act 1982(5).
  - (4) The matters referred to in paragraph (2)(ii) are—
    - (a) the constable’s police number and the name of the police station to which he is attached;
    - (b) the object of the proposed search;
    - (c) the constable’s grounds for proposing to make it; and
    - (d) the effect of Article 5(7) or (8), as may be appropriate.
  - (5) A constable need not bring the effect of Article 5(7) or (8) to the attention of the appropriate person if it appears to the constable that it will not be practicable to make the record in Article 5(1).
  - (6) In this Article “the appropriate person” means—
    - (a) if the constable proposes to search a person, that person; and
    - (b) if he proposes to search a vehicle, or anything in or on a vehicle, the person in charge of the vehicle.
  - (7) On completing a search of an unattended vehicle or anything in or on such a vehicle in the exercise of any such power as is mentioned in paragraph (2), other than a search under any of the provisions mentioned in paragraph (3), a constable shall leave a notice—
    - (a) stating that the vehicle has been searched by the police;
    - (b) giving his police number and the name of the police station to which he is attached;
    - (c) stating that an application for compensation for any damage caused by the search may be made to that police station; and
    - (d) stating the date on which the search was carried out and the effect of Article 5(8).
  - (8) The constable shall leave the notice inside the vehicle unless it is not reasonably practicable to do so without damaging the vehicle.
  - (9) The time for which a person or vehicle may be detained for the purposes of such a search is such time as is reasonably required to permit a search to be carried out either at the place where the person or vehicle was first detained or nearby.
  - (10) Neither the power conferred by Article 3 nor any other power to detain and search a person without first arresting him or to detain and search a vehicle without making an arrest is to be construed—
    - (a) as authorising a constable to require a person to remove any of his clothing in public other than an outer coat, jacket, headgear or gloves; or
    - (b) as authorising a constable not in uniform to stop a vehicle.
  - (11) This Article and Article 3 apply to vessels, aircraft and hovercraft as they apply to vehicles.

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(4) 1978 c. 5  
(5) 1982 c. 36

**Duty to make records concerning searches**

5.—(1) Where a constable has carried out a search in the exercise of any such power as is mentioned in Article 4(2), other than a search under a power conferred by any of the provisions mentioned in Article 4(3), he shall make a record of it in writing unless it is not practicable to do so.

(2) If—

- (a) a constable is required by paragraph (1) to make a record of a search; but
- (b) it is not practicable to make the record on the spot,

he shall make it as soon as practicable after the completion of the search.

(3) The record of a search of a person shall include a note of his name, if the constable knows it, but a constable may not detain a person to find out his name.

(4) If a constable does not know the name of a person whom he has searched, the record of the search shall include a note otherwise describing that person.

(5) The record of a search of a vehicle shall include a note describing the vehicle.

(6) The record of a search of a person or a vehicle—

(a) shall state—

- (i) the object of the search;
- (ii) the grounds for making it;
- (iii) the date and time when it was made;
- (iv) the place where it was made;
- (v) whether anything, and if so what, was found;
- (vi) whether any, and if so what, injury to a person or damage to property appears to the constable to have resulted from the search; and

(b) shall identify by reference to his police number the constable making it.

(7) If a constable who conducted a search of a person made a record of it, the person who was searched shall be entitled to a copy of the record if he asks for one before the end of the period specified in paragraph (9).

(8) If—

- (a) the owner of a vehicle which has been searched or the person who was in charge of the vehicle at the time when it was searched asks for a copy of the record of the search before the end of the period specified in paragraph (9); and
- (b) the constable who conducted the search made a record of it,

the person who made the request shall be entitled to a copy.

(9) The period mentioned in paragraphs (7) and (8) is the period of 12 months beginning with the date on which the search was made.

(10) The requirements imposed by this Article with regard to records of searches of vehicles shall apply also to records of searches of vessels, aircraft and hovercraft.

**Road checks**

6.—(1) This Article shall have effect in relation to the conduct of road checks by police officers for the purpose of ascertaining whether a vehicle is carrying—

- (a) a person who has committed an offence other than a road traffic offence or a vehicles excise offence;
- (b) a person who is a witness to such an offence;

- (c) a person intending to commit such an offence; or
- (d) a person who is unlawfully at large.

(2) For the purposes of this Article a road check consists of the exercise in a locality of the power conferred by Article 180(1) of the Road Traffic (Northern Ireland) Order 1981(6) in such a way as to stop during the period for which its exercise in that way in that locality continues all vehicles or vehicles selected by any criterion.

(3) Subject to paragraph (5), there may only be such a road check if a police officer of the rank of superintendent or above authorises it in writing.

(4) An officer may only authorise a road check under paragraph (3)—

- (a) for the purpose specified in paragraph (1)(a), if he has reasonable grounds—
  - (i) for believing that the offence is a serious arrestable offence; and
  - (ii) for suspecting that the person is, or is about to be, in the locality in which vehicles would be stopped if the road check were authorised;
- (b) for the purpose specified in paragraph (1)(b), if he has reasonable grounds for believing that the offence is a serious arrestable offence;
- (c) for the purpose specified in paragraph (1)(c), if he has reasonable grounds—
  - (i) for believing that the offence would be a serious arrestable offence; and
  - (ii) for suspecting that the person is, or is about to be, in the locality in which vehicles would be stopped if the road check were authorised;
- (d) for the purpose specified in paragraph (1)(d), if he has reasonable grounds for suspecting that the person is, or is about to be, in that locality.

(5) An officer below the rank of superintendent may authorise such a road check if it appears to him that it is required as a matter of urgency for one of the purposes specified in paragraph (1).

(6) If an authorisation is given under paragraph (5), it shall be the duty of the officer who gives it—

- (a) to make a written record of the time at which he gives it; and
- (b) to cause an officer of the rank of superintendent or above to be informed that it has been given.

(7) The duties imposed by paragraph (6) shall be performed as soon as it is practicable to do so.

(8) An officer to whom a report is made under paragraph (6) may, in writing, authorise the road check to continue.

(9) If such an officer considers that the road check should not continue, he shall record in writing—

- (a) the fact that it took place; and
- (b) the purpose for which it took place.

(10) An officer giving an authorisation under this Article shall specify the locality in which vehicles are to be stopped.

(11) An officer giving an authorisation under this Article, other than an authorisation under paragraph (5)—

- (a) shall specify a period, not exceeding seven days, during which the road check may continue; and
- (b) may direct that the road check—

- (i) shall be continuous; or
- (ii) shall be conducted at specified times, during that period.

(12) If it appears to an officer of the rank of superintendent or above that a road check ought to continue beyond the period for which it has been authorised he may, from time to time, in writing specify a further period, not exceeding seven days, during which it may continue.

(13) Every written authorisation shall specify—

- (a) the name of the officer giving it;
- (b) the purpose of the road check; and
- (c) the locality in which vehicles are to be stopped.

(14) The duties to specify the purposes of a road check imposed by paragraphs (9) and (13) include duties to specify any relevant serious arrestable offence.

(15) Where a vehicle is stopped in a road check, the person in charge of the vehicle at the time when it is stopped shall be entitled to obtain a written statement of the purpose of the road check if he applies for such a statement not later than the end of the period of twelve months from the day on which the vehicle was stopped.

(16) Nothing in this Article affects the exercise by police officers of any power to stop vehicles for purposes other than those specified in paragraph (1).

### **Reports of recorded searches and of road checks**

7.—(1) Every annual report under section 15 of the Police Act (Northern Ireland) 1970(7) shall contain information—

- (a) about searches recorded under Article 5 which have been carried out during the period to which it relates; and
- (b) about road checks authorised during that period under Article 6.

(2) The information about searches shall not include information about specific searches but shall include—

- (a) the total numbers of searches in each month during the period to which the report relates—
  - (i) for stolen articles;
  - (ii) for offensive weapons or articles to which Article 3(9) applies; and
  - (iii) for other prohibited articles;
- (b) the total number of persons arrested in each such month in consequence of searches of each of the descriptions specified in sub-paragraph (a)(i) to (iii).

(3) The information about road checks shall include information—

- (a) about the reason for authorising each road check; and
- (b) about the result of each of them.

### **Statutory undertakers etc.**

8.—(1) A constable employed by statutory undertakers may stop, detain and search any vehicle before it leaves a goods area included in the premises of the statutory undertakers.

(2) In this Article “goods area” means any area used wholly or mainly for the storage or handling of goods.

## **Part II—supplementary**

**9.**—(1) Section 19 of the Pedlars Act 1871(**8**) shall cease to have effect.

(2) There shall also cease to have effect so much of any provision contained in an Act passed before the coming into operation of this Part, other than—

(a) a provision contained in any public general Act; or

(b) a provision relating to statutory undertakers,

as confers on a constable a power to search for stolen or unlawfully obtained goods.

(3) In this Part “statutory undertakers” means persons authorised by any enactment to carry on any aerodrome, dock or harbour undertaking.