
DRAFT STATUTORY INSTRUMENTS

1998 No.

Criminal Justice (Children) (Northern Ireland) Order 1998

PART III

ARREST AND DETENTION

Child arrested in pursuance of warrant to be released

6.—(1) A child arrested in pursuance of a warrant shall be released if the child or his parent or guardian (with or without sureties) enters into a recognizance for such amount as the custody officer considers will secure the attendance of the child at the hearing of the charge.

(2) A recognizance entered into in pursuance of paragraph (1) may be—

- (a) taken before the officer;
- (b) conditioned for the attendance of the parent or guardian at the hearing in addition to the child;
- (c) enforced in the same manner as a recognizance to appear before a court may be enforced under Article 138 of the Magistrates' Courts (Northern Ireland) Order 1981.

(3) Paragraph (1) shall not apply if the custody officer considers that—

- (a) the child was arrested for a serious arrestable offence; or
- (b) for the protection of the public the child should not be released.

(4) In this Order “custody officer” means a member of the Royal Ulster Constabulary performing the functions of custody officer (within the meaning of the Police and Criminal Evidence (Northern Ireland) Order 1989) at the police station to which the child is brought.

Child apparently under 14 arrested without warrant for offence other than homicide to be released

7.—(1) This Article applies where a child apparently under the age of 14 is arrested without warrant for an offence other than homicide.

(2) If the child cannot forthwith be brought before a magistrates' court, the custody officer shall inquire into the case.

(3) Subject to paragraph (5), the child shall be released if the child or his parent or guardian (with or without sureties) enters into a recognizance for such amount as the custody officer considers will secure the attendance of the child at the hearing of the charge.

(4) A recognizance entered into in pursuance of paragraph (3) may be—

- (a) taken before the officer;
- (b) conditioned for the attendance of the parent or guardian at the hearing in addition to the child;
- (c) enforced in the same manner as a recognizance to appear before a court may be enforced under Article 138 of the Magistrates' Courts (Northern Ireland) Order 1981.

- (5) Paragraph (3) shall not apply if the custody officer considers that—
- (a) the child was arrested for a serious arrestable offence; or
 - (b) for the protection of the public the child should not be released.

Child not released under Article 7

- 8.—(1) Where a child apparently under the age of 14—
- (a) is arrested without warrant for an offence other than homicide; and
 - (b) is not released under Article 7,

the child shall be brought before a magistrates' court as soon as is practicable and in any case within a period of 36 hours from the time of his arrest.

(2) Paragraph (1) shall not apply if a member of the Royal Ulster Constabulary of a rank not below that of superintendent certifies to a magistrates' court within the period of 36 hours from the time of the child's arrest that by reason of illness or accident the child cannot be brought before the court.

(3) The custody officer shall ensure that the child is moved to a juvenile justice centre until the child can be brought before a magistrates' court.

- (4) Paragraph (3) shall not apply if the custody officer certifies—
- (a) that it is impracticable to move the child to a juvenile justice centre; or
 - (b) that by reason of his character or his state of health it is inadvisable to do so.

(5) A certificate made under paragraph (4) in respect of a child shall be produced to the court before which he is first brought.

- (6) Where under this Article—
- (a) a child is brought before a magistrates' court; or
 - (b) a certificate made under paragraph (2) in respect of a child is produced in a magistrates' court,

the court may remand him.

Separation of child in police detention from adults charged with offences

9.—(1) Arrangements shall be made for preventing a child while he is detained in a police station from associating with a person who is charged with any offence other than an offence with which the child is jointly charged.

- (2) Paragraph (1) shall not apply where the person is—
- (a) a parent or guardian of the child;
 - (b) a relative of the child; or
 - (c) a child.

(3) Arrangements shall be made for ensuring that so far as practicable while a child who is a girl is detained in a police station she shall be under the care of a woman.

Duty to inform person responsible for welfare of child in police detention

10.—(1) Where a child is in police detention, such steps as are practicable shall be taken to ascertain the identity of a person responsible for his welfare and inform him—

- (a) that the child has been arrested;
- (b) why he has been arrested; and
- (c) where he is being detained.

(2) Where information falls to be given under paragraph (1), it shall be given as soon as it is practicable to do so.

(3) For the purposes of this Article the persons who may be responsible for the welfare of a child are—

(a) his parent or guardian; or

(b) any other person who has for the time being assumed responsibility for his welfare.

(4) If it appears that at the time of the child's arrest a supervision order under Part V of the Children (Northern Ireland) Order 1995 or a probation order is in force in respect of him, his supervisor or probation officer shall also be informed as described in paragraph (1) as soon as it is reasonably practicable to do so.

(5) The reference to a parent or guardian in paragraph (3)(a) is, in the case of a child being looked after by an authority (within the meaning of Article 25 of the Children (Northern Ireland) Order 1995), a reference to that authority and the parent or guardian of the child.

(6) The provisions of this Article are in addition to those of Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (right to have someone informed when arrested).

(7) In paragraph (1) the reference to a child who is in police detention includes a reference to a child who has been detained under the terrorism provisions; and the references to arrest include references to such detention.

(8) In paragraph (7) "the terrorism provisions" has the meaning assigned to it by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989.