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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*

#### **Duties of custody officer after charge**

**39.**—(1) Where a person arrested for an offence otherwise than under a warrant endorsed for bail is charged with an offence, the custody officer shall order his release from police detention, either on bail or without bail, unless—

- (a) if the person arrested is not an arrested juvenile—
  - (i) his name or address cannot be ascertained or the custody officer has reasonable grounds for doubting whether a name or address furnished by him as his name or address is his real name or address;
  - [<sup>F1</sup>(ia) in the case of a person arrested for an imprisonable offence, the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from committing an offence;]
  - (ii) the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary<sup>F2</sup> . . . to prevent him from causing physical injury to any other person or from causing loss of or damage to property;<sup>F3</sup> . . .
  - (iii) the custody officer has reasonable grounds for believing that the person arrested will fail to appear in court to answer to bail or that his detention is necessary to prevent him from interfering with the administration of justice or with the investigation of offences or of a particular offence; [<sup>F4</sup> or
  - (iv) the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection;]
- (b) if he is an arrested juvenile—
  - (i) any of the requirements of sub#paragraph (a) is satisfied; or
  - (ii) the custody officer has reasonable grounds for believing that he ought to be detained in his own interests.

[<sup>F1</sup>(1A) In paragraph (1) “imprisonable offence” means an offence for which a person over the age of 21 years is liable, on first conviction, to a term of imprisonment.]

(2) If the release of a person arrested is not required by paragraph (1), the custody officer may authorise him to be kept in police detention.

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*Changes to legislation: The Police and Criminal Evidence (Northern Ireland) Order 1989, Section 39 is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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[<sup>F5</sup>(2A) The custody officer, in taking the decisions required by paragraph (1)(a) and (b) (except (a)(i) and (iv) and (b)(ii)), shall have regard to such of the following considerations as appear to him to be relevant—

- (a) the nature and seriousness of the offence;
- (b) the character, antecedents, associations and community ties of the person;
- (c) the person's record as respects the fulfilment of his obligations under previous grants of bail, and
- (d) the strength of the evidence of the person's having committed the offence,

as well as to any other considerations which appear to be relevant.]

(3) Where a custody officer authorises a person who has been charged to be kept in police detention, he shall, as soon as practicable, make a written record of the grounds for the detention.

(4) Subject to paragraph (5), the written record shall be made in the presence of the person charged who shall at that time be informed by the custody officer of the grounds for his detention.

(5) Paragraph (4) shall not apply where the person charged is, at the time when the written record is made—

- (a) incapable of understanding what is said to him;
- (b) violent or likely to become violent; or
- (c) in urgent need of medical attention.

(6) Where a custody officer authorises an arrested juvenile to be kept in police detention under paragraph (1), the custody officer shall, unless he certifies that it is impracticable to do so, make arrangements for the arrested juvenile to be taken to a place of safety and detained there; and it shall be lawful to detain him in pursuance of the arrangements.

(7) A certificate made under paragraph (6) in respect of an arrested juvenile shall be produced to the court before which he is first brought thereafter.

[<sup>F6</sup>(8) In paragraph (6) “place of safety” means any juvenile justice centre, any hospital or surgery, or any other suitable place, the occupier of which is willing temporarily to receive the arrested juvenile.]

<b>F1</b>	1995 NI 17
<b>F2</b>	Words in art. 39(1)(a)(ii) repealed (12.3.2007) by Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13)), arts. 1(3), 7(a)(i), Sch. 2; S.R. 2007/56, <b>art. 2</b>
<b>F3</b>	Word in art. 39(1)(a)(ii) repealed (12.3.2007) by Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13)), arts. 1(3), 7(a)(i), Sch. 2; S.R. 2007/56, <b>art. 2</b>
<b>F4</b>	Art. 39(1)(a)(iv) and preceding word added (12.3.2007) by Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13)), arts. 1(3), 7(a)(ii); S.R. 2007/56, <b>art. 2</b>
<b>F5</b>	Art. 39(2A) inserted (12.3.2007) by Criminal Justice (Northern Ireland) Order 2003 (S.I. 2003/1247 (N.I. 13)), arts. 1(3), 7(b); S.R. 2007/56, <b>art. 2</b>
<b>F6</b>	1998 NI 9

**Changes to legislation:**

The Police and Criminal Evidence (Northern Ireland) Order 1989, Section 39 is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to :**

- various legislation applied by [2016 c. 18 \(N.I.\) s. 161\(2\)\(a\)](#)
- art. 39 applied (with modifications) by [2011 c. 24 \(N.I.\) s. 76\(2\)\(g\)\(3\)](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

- Order applied by [2016 c. 18 \(N.I.\) s. 150\(1\)\(a\)](#)
- Order excluded by [2012 c. 9 Sch. 1 para. 7\(5\)](#)
- Order extended by [2003 c. 6 Sch. 4 para. 23A \(as inserted\) by S.I. 2007/912 \(N.I.\) Sch. 4 para. 5](#)

**Whole provisions yet to be inserted into this Order (including any effects on those provisions):**

- Sch. 2A para. 1(4) inserted by [2015 c. 9 \(N.I.\) s. 83\(3\)\(a\)\(ii\)](#)
- Sch. 2A para. 2(2)(c) and word inserted by [2015 c. 9 \(N.I.\) s. 83\(3\)\(b\)\(ii\)](#)
- Sch. 2A para. 9(4) inserted by [2015 c. 9 \(N.I.\) s. 83\(3\)\(c\)\(ii\)](#)
- Sch. 2A para. 10(5) inserted by [2015 c. 9 \(N.I.\) s. 83\(3\)\(d\)\(ii\)](#)
- Sch. 2A para. 2(2)(b) words substituted by [2015 c. 9 \(N.I.\) s. 83\(3\)\(b\)\(i\)](#)
- art. 62(10)(ab) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\)](#), Sch. 2 para. 6(3)(b) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(e\)](#)
- art. 3(9ZA)(9ZB) inserted by [2019 c. 17 s. 12\(5\)](#)
- art. 19(1)(cc) inserted by [S.I. 2007/916 \(N.I.\) art. 18\(2\)](#)
- art. 53(3A)(3B) inserted by [2013 c. 7 \(N.I.\) Sch. 3 para. 1\(3\)](#)
- art. 53(3A) inserted by [2010 c. 17 s. 15\(4\)](#)
- art. 53(4) inserted by [2010 c. 17 s. 9\(6\)](#)
- art. 53B inserted by [2013 c. 7 \(N.I.\) Sch. 3 para. 3](#)
- art. 56(13A)(b)(iii) and word substituted for word by [2015 c. 9 \(N.I.\) Sch. 2 para. 6\(1\)\(b\)](#)
- art. 56(13A)(b)(iii) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\)](#), Sch. 2 para. 6(1)(b) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(e\)](#)
- art. 56A(9)(b)(iii) and word substituted for word by [2015 c. 9 \(N.I.\) Sch. 2 para. 6\(2\)\(b\)](#)
- art. 56A(9)(b)(iii) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\)](#), Sch. 2 para. 6(2)(b) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(e\)](#)
- art. 61(5A) inserted by [2010 c. 17 s. 8\(1\)](#)
- art. 61(5A)(b) words substituted by [2015 c. 9 \(N.I.\) s. 83\(1\)\(a\)](#)
- art. 61(5B) inserted by [2010 c. 17 s. 8\(2\)](#)
- art. 61(5B)(b) words substituted by [2015 c. 9 \(N.I.\) s. 83\(1\)\(a\)](#)
- art. 61(5C) inserted by [2015 c. 9 \(N.I.\) s. 83\(1\)\(b\)](#)
- art. 61(6)-(6ZD) substituted for art. 61(6) by [2010 c. 17 s. 8\(3\)](#)
- art. 61(6D)-(6G) inserted by [2010 c. 17 s. 9\(1\)](#)
- art. 61(6BA) inserted by [2008 c. 28 s. 12\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 12 omitted (14.12.2011) by virtue of [2011 c. 23, ss. 29, 31\(2\)](#), Sch. 7 para. 5(3))
- art. 62(2A)(2B) inserted by [2010 c. 17 s. 9\(2\)](#)
- art. 62(10)(ab) inserted by [2015 c. 9 \(N.I.\) Sch. 2 para. 6\(3\)\(b\)](#)
- art. 62(10)(ab) words substituted in earlier affecting provision [2015 c. 9 \(N.I.\)](#), Sch. 2 para. 6(3)(b) by [2022 c. 4 \(N.I.\) s. 4\(9\)\(e\)](#)
- art. 63(3A)(c)(i) word substituted by [2013 c. 7 \(N.I.\) Sch. 3 para. 4](#)

- art. 63(3B)-(3BD) substituted for art. 63(3B) by [2010 c. 17 s. 8\(7\)](#)
- art. 63(3C) inserted by [2008 c. 28 s. 12\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 12 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- art. 63(3D)-(3G) inserted by [2010 c. 17 s. 9\(4\)](#)
- art. 63(3AA) inserted by [2015 c. 9 \(N.I.\) s. 83\(2\)\(c\)](#)
- art. 63(3ZA) inserted by [2010 c. 17 s. 8\(5\)](#)
- art. 63(3ZA)(b)(iii) and word inserted by [2015 c. 9 \(N.I.\) s. 83\(2\)\(a\)](#)
- art. 63A(1E)(1F) inserted by [2010 c. 17 s. 11\(1\)](#)
- art. 63A(6A) inserted by [2008 c. 28 s. 12\(4\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 12 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- art. 63B-63R inserted by [2013 c. 7 \(N.I.\) Sch. 2](#)
- art. 63D(1)(a) substituted by [2019 c. 3 Sch. 2 para. 5\(2\)\(a\)](#)
- art. 63D(1)(a)(i) words inserted by [S.I. 2023/1386 Sch. para. 9\(5\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertions of ss. 63D and 63DA by 2013 c. 7 (N.I.), Sch. 2 and 2019 c. 3, Sch. 2 para. 5 respectively are still prospective)
- art. 63D(14) words inserted by [2019 c. 3 Sch. 2 para. 5\(2\)\(b\)](#)
- art. 63D(14) words inserted by [S.I. 2023/1386 Sch. para. 9\(5\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertions of ss. 63D and 63DA by 2013 c. 7 (N.I.), Sch. 2 and 2019 c. 3, Sch. 2 para. 5 respectively are still prospective)
- art. 63N substituted by [2015 c. 9 \(N.I.\) s. 86](#)
- art. 63R(4A) inserted by [2019 c. 3 Sch. 4 para. 20\(9\)](#)
- art. 63R(4B) inserted by [2023 c. 32 Sch. 18 para. 5\(8\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertion of art. 63R by 2013 c. 7 (N.I.) Sch. 2 remains prospective at 31.12.2023.)
- art. 63R(5) words substituted by [2015 c. 9 \(N.I.\) s. 87\(a\)](#)
- art. 63R(5A)(5B) inserted by [2015 c. 9 \(N.I.\) s. 87\(b\)](#)
- art. 63DA inserted by [2019 c. 3 Sch. 2 para. 5\(3\)](#)
- art. 63DA heading words inserted by [S.I. 2023/1386 Sch. para. 9\(6\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertions of ss. 63D and 63DA by 2013 c. 7 (N.I.), Sch. 2 and 2019 c. 3, Sch. 2 para. 5 respectively are still prospective)
- art. 63DA(1)(a) words inserted by [S.I. 2023/1386 Sch. para. 9\(6\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertions of ss. 63D and 63DA by 2013 c. 7 (N.I.), Sch. 2 and 2019 c. 3, Sch. 2 para. 5 respectively are still prospective)
- art. 63DA(4) words inserted by [S.I. 2023/1386 Sch. para. 9\(6\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). The insertions of ss. 63D and 63DA by 2013 c. 7 (N.I.), Sch. 2 and 2019 c. 3, Sch. 2 para. 5 respectively are still prospective)
- art. 63GA inserted by [2015 c. 9 \(N.I.\) s. 84](#)
- art. 63KA inserted by [2015 c. 9 \(N.I.\) s. 85](#)
- art. 64(1AA) inserted by [2008 c. 28 s. 12\(5\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 12 omitted (14.12.2011) by virtue of 2011 c. 23, ss. 29, 31(2), Sch. 7 para. 5(3))
- art. 64(1AB) inserted by [2008 c. 28 s. 15\(5\)](#)
- art. 89(2A) inserted by [2013 c. 7 \(N.I.\) Sch. 3 para. 5](#)