
STATUTORY INSTRUMENTS

1989 No. 1341 (N.I. 12)

NORTHERN IRELAND

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

*Made - - - - 2nd August 1989
Coming into operation in accordance with Article 1(2)
and (3)*

At the Court at Buckingham Palace, the 2nd day of August 1989

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974⁽¹⁾ and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Police and Criminal Evidence (Northern Ireland) Order 1989.

(2) This Article and Articles 2, 29(4), 60(a), 65, 66 and 89 shall come into operation on the expiration of one month from the day on which the Order is made.

(3) The other provisions of this Order shall come into operation on such day or days as the Secretary of State may by order appoint.

(4) An order under paragraph (3) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation.

(1) 1974 c. 28

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954⁽²⁾ shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“arrestable offence” has the meaning assigned to it by Article 26;

“designated police station” has the meaning assigned to it by Article 36;

“document” has the same meaning as in Part I of the Civil Evidence Act (Northern Ireland) 1971⁽³⁾;

“intimate search” means a search which consists of the physical examination of a person’s body orifices;

“items subject to legal privilege” has the meaning assigned to it by Article 12;

“parent or guardian” means—

- (a) in the case of a child or young person in the care of the Department of Health and Social Services, that Department; and
- (b) in the case of a child or young person in the care of a Health and Social Services Board, that Board;

“Police Authority” means the Police Authority for Northern Ireland;

“police officer” means a member of the Royal Ulster Constabulary or of the Royal Ulster Constabulary Reserve;

“premises” has the meaning assigned to it by Article 25;

“recordable offence” means any offence to which regulations under Article 29 apply;

“serious arrestable offence” has the meaning assigned to it by Article 87;

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954⁽⁴⁾;

“the terrorism provisions” means section 14(1) of the Prevention of Terrorism (Temporary Provisions) Act 1989⁽⁵⁾ and any provision of Schedule 2 or 5 to that Act conferring a power of arrest or detention;

“terrorism” has the meaning assigned to it by section 20(1) of that Act;

“vessel” includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

(3) Subject to paragraph (4), a person is in police detention for the purposes of this Order if—

- (a) he has been taken to a police station after being arrested for an offence or after being arrested under section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989 or under paragraph 6 of Schedule 5 to that Act by an examining officer who is a constable; or
- (b) he is arrested at a police station after attending voluntarily at the station or accompanying a constable to it,

and is detained there or is detained elsewhere in the charge of a constable.

(4) A person—

- (a) who is at a court after being charged; or

(2) 1954 c. 33 (N.I.)

(3) 1971 c. 36 (N.I.)

(4) 1954 c. 33 (N.I.)

(5) 1989 c. 4

(b) who has been taken from a custodial establishment and held in police custody pending his appearance at a court,

is not in police detention for those purposes.

(5) In paragraph (4) “custodial establishment” includes a prison, a young offenders centre, a training school, a remand centre and a remand home.

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⁽⁶⁾ (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⁽⁷⁾ (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)⁽⁸⁾.
- (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—
- (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);

⁽⁶⁾ 1969 c. 16 (N.I.)

⁽⁷⁾ 1981 NI 1

⁽⁸⁾ 1988 c. 33

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⁽⁹⁾, and
- (c) section 27(2) of the Aviation Security Act 1982⁽¹⁰⁾.

(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.

⁽⁹⁾ 1978 c. 5

⁽¹⁰⁾ 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(11) 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(12) 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(**13**) 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.

PART III

POWERS OF ENTRY, SEARCH AND SEIZURE

Search warrants

Power of justice of the peace to authorise entry and search of premises

10.—(1) If on an application made by a constable a justice of the peace is satisfied that there are reasonable grounds for believing—

- (a) that a serious arrestable offence has been committed; and
- (b) that there is material on premises specified in the application which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence; and
- (c) that the material is likely to be relevant evidence; and
- (d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material; and
- (e) that any of the conditions specified in paragraph (3) applies,

he may issue a warrant authorising a constable to enter and search the premises.

(2) A constable may seize and retain anything for which a search has been authorised under paragraph (1).

(3) The conditions mentioned in paragraph (1)(e) are—

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
- (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
- (c) that entry to the premises will not be granted unless a warrant is produced;
- (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

(4) In this Order “relevant evidence”, in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.

(5) The power to issue a warrant conferred by this Article is in addition to any such power otherwise conferred.

Special provisions as to access

11.—(1) A constable may obtain access to excluded material or special procedure material for the purposes of a criminal investigation by making an application under Schedule 1 and in accordance with that Schedule.

(2) Subject to paragraph (3), any statutory provision passed or made before the making of this Order under which a search of premises for the purposes of a criminal investigation could be authorised by the issue of a warrant to a constable shall cease to have effect so far as it relates to the authorisation of searches—

- (a) for items subject to legal privilege; or
- (b) for excluded material; or
- (c) for special procedure material consisting of documents or records other than documents.

(3) Nothing in this Article or in Schedule 1 shall affect the powers conferred by section 17 of, and Schedule 7 to, the Prevention of Terrorism (Temporary Provisions) Act 1989⁽¹⁴⁾.

Meaning of “items subject to legal privilege”

12.—(1) Subject to paragraph (2), in this Order “items subject to legal privilege” means—

- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
- (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and
- (c) items enclosed with or referred to in such communications and made—
 - (i) in connection with the giving of legal advice; or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(2) Items held with the intention of furthering a criminal purpose are not items subject to legal privilege.

Meaning of “excluded material”

13.—(1) Subject to the following provisions of this Article, in this Order “excluded material” means—

- (a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence;
- (b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence;
- (c) journalistic material which a person holds in confidence and which consists—
 - (i) of documents; or

(ii) of records other than documents.

(2) A person holds material other than journalistic material in confidence for the purposes of this Article if he holds it subject—

- (a) to an express or implied undertaking to hold it in confidence; or
- (b) to a restriction on disclosure or an obligation of secrecy contained in any statutory provision, including a statutory provision passed or made after the making of this Order.

(3) A person holds journalistic material in confidence for the purposes of this Article if—

- (a) he holds it subject to such an undertaking, restriction or obligation; and
- (b) it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

Meaning of “personal records”

14. In this Part “personal records” means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating—

- (a) to his physical or mental health;
- (b) to spiritual counselling or assistance given or to be given to him; or
- (c) to counselling or assistance given or to be given to him, for the purposes of his personal welfare, by any voluntary organisation or by any individual who—
 - (i) by reason of his office or occupation has responsibilities for his personal welfare; or
 - (ii) by reason of an order of a court has responsibilities for his supervision.

Meaning of “journalistic material”

15.—(1) Subject to paragraph (2), in this Order “journalistic material” means material acquired or created for the purposes of journalism.

(2) Material is only journalistic material for the purposes of this Order if it is in the possession of a person who acquired or created it for the purposes of journalism.

(3) A person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

Meaning of “special procedure material”

16.—(1) In this Order “special procedure material” means—

- (a) material to which paragraph (2) applies; and
- (b) journalistic material, other than excluded material.

(2) Subject to the following provisions of this Article, this paragraph applies to material, other than items subject to legal privilege and excluded material, in the possession of a person who—

- (a) acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office; and
- (b) holds it subject—
 - (i) to an express or implied undertaking to hold it in confidence; or
 - (ii) to a restriction or obligation such as is mentioned in Article 13(2)(b).

(3) Where material is acquired—

- (a) by an employee from his employer and in the course of his employment; or

(b) by a company from an associated company,
it is only special procedure material if it was special procedure material immediately before the acquisition.

(4) Where material is created by an employee in the course of his employment, it is only special procedure material if it would have been special procedure material had his employer created it.

(5) Where material is created by a company on behalf of an associated company, it is only special procedure material if it would have been special procedure material had the associated company created it.

(6) A company is to be treated as another's associated company for the purposes of this Article if it would be so treated under section 416 of the Income and Corporation Taxes Act 1988(15).

Search warrants—safeguards

17.—(1) This Article and Article 18 have effect in relation to the issue to constables under any statutory provision, including a statutory provision passed or made after the making of this Order, of warrants to enter and search premises; and an entry on or search of premises under a warrant is unlawful unless the warrant complies with this Article and is executed in accordance with Article 18.

(2) Where a constable applies for any such warrant, it shall be his duty—

(a) to state—

(i) the ground on which he makes the application; and

(ii) the statutory provision under which the warrant would be issued;

(b) to specify the premises which it is desired to enter and search; and

(c) to identify, so far as is practicable, the articles or persons to be sought.

(3) An application for such a warrant shall be supported by a complaint in writing and substantiated on oath.

(4) The constable shall answer any question that the justice of the peace or judge hearing the application asks him.

(5) A warrant shall authorise an entry on one occasion only.

(6) A warrant—

(a) shall specify—

(i) the name of the person who applies for it;

(ii) the date on which it is issued;

(iii) the statutory provision under which it is issued; and

(iv) the premises to be searched; and

(b) shall identify, so far as is practicable, the articles or persons to be sought.

(7) Two copies shall be made of a warrant.

(8) The copies shall be clearly certified as copies by the justice of the peace or judge who issues the warrant.

Execution of warrants

18.—(1) A warrant to enter and search premises may be executed by any constable.

(2) Such a warrant may authorise persons to accompany any constable who is executing it.

- (3) Entry and search under a warrant must be within one month from the date of its issue.
- (4) Entry and search under a warrant must be at a reasonable hour unless it appears to the constable executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.
- (5) Where the occupier of premises which are to be entered and searched is present at the time when a constable seeks to execute a warrant to enter and search them, the constable—
- (a) shall identify himself to the occupier and, if not in uniform, shall produce to him documentary evidence that he is a constable;
 - (b) shall produce the warrant to him; and
 - (c) shall supply him with a certified copy of it.
- (6) Where—
- (a) the occupier of such premises is not present at the time when a constable seeks to execute such a warrant; but
 - (b) some other person who appears to the constable to be in charge of the premises is present, paragraph (5) shall have effect as if any reference to the occupier were a reference to that other person.
- (7) If there is no person present who appears to the constable to be in charge of the premises, he shall leave or affix a copy of the warrant in a prominent place on the premises.
- (8) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.
- (9) A constable executing a warrant shall make an endorsement on it stating—
- (a) whether the articles or persons sought were found; and
 - (b) whether any articles were seized, other than articles which were sought.
- (10) A warrant which—
- (a) has been executed; or
 - (b) has not been executed within the time authorised for its execution,
- shall be returned to the clerk of petty sessions for the petty sessions district in which the premises are situated.
- (11) A warrant which is returned under paragraph (10) shall be retained for 12 months from its return.
- (12) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, he shall be allowed to do so.

Entry and search without search warrant

Entry for purpose of arrest etc.

19.—(1) Subject to the following provisions of this Article, and without prejudice to any other statutory provision, a constable may enter and search any premises for the purpose—

- (a) of executing—
 - (i) a warrant of arrest issued in connection with or arising out of criminal proceedings; or
 - (ii) a warrant of commitment issued under Article 92 of the Magistrates' Courts (Northern Ireland) Order 1981(16);

- (b) of arresting a person for an arrestable offence;
 - (c) of arresting a person for an offence under Article 9 or 21 of the Public Order (Northern Ireland) Order 1987⁽¹⁷⁾;
 - (d) of recapturing a person who is unlawfully at large and whom he is pursuing; or
 - (e) of saving life or limb or preventing serious damage to property.
- (2) Except for the purpose specified in paragraph (1)(e), the powers of entry and search conferred by this Article—
- (a) are only exercisable if the constable has reasonable grounds for believing that the person whom he is seeking is on the premises; and
 - (b) are limited, in relation to premises consisting of two or more separate dwellings, to powers to enter and search—
 - (i) any parts of the premises which the occupiers of any dwelling comprised in the premises use in common with the occupiers of any other such dwelling; and
 - (ii) any such dwelling in which the constable has reasonable grounds for believing that the person whom he is seeking may be.
- (3) The power of search conferred by this Article is only a power to search to the extent that is reasonably required for the purpose for which the power of entry is exercised.
- (4) Subject to paragraph (5), all the rules of common law under which a constable has power to enter premises without a warrant are hereby abolished.
- (5) Nothing in paragraph (4) affects any power of entry to deal with or prevent a breach of the peace.

Entry and search after arrest

- 20.**—(1) Subject to the following provisions of this Article, a constable may enter and search any premises occupied or controlled by a person who is under arrest for an arrestable offence, if he has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates—
- (a) to that offence; or
 - (b) to some other arrestable offence which is connected with or similar to that offence.
- (2) A constable may seize and retain anything for which he may search under paragraph (1).
- (3) The power to search conferred by paragraph (1) is only a power to search to the extent that is reasonably required for the purpose of discovering such evidence.
- (4) Subject to paragraph (5), the powers conferred by this Article may not be exercised unless an officer of the rank of inspector or above has authorised them in writing.
- (5) A constable may conduct a search under paragraph (1)—
- (a) before taking the person to a police station; and
 - (b) without obtaining an authorisation under paragraph (4),
- if the presence of that person at a place other than a police station is necessary for the effective investigation of the offence.
- (6) If a constable conducts a search by virtue of paragraph (5), he shall inform an officer of the rank of inspector or above that he has made the search as soon as practicable after he has made it.
- (7) An officer who—

(17) 1987 NI 7

- (a) authorises a search; or
- (b) is informed of a search under paragraph (6),

shall make a record in writing—

- (i) of the grounds for the search; and
- (ii) of the nature of the evidence that was sought.

(8) If the person who was in occupation or control of the premises at the time of the search is in police detention at the time the record is to be made, the officer shall make the record as part of his custody record.

(9) In the application of this Article to a member of a constabulary not maintained by the Police Authority, references to an officer of the rank of inspector or above shall be construed as references to a member of that constabulary whose rank is above that of constable.

Seizure etc.

General power of seizure etc.

21.—(1) The powers conferred by paragraphs (2), (3) and (4) are exercisable by a constable who is lawfully on any premises.

(2) The constable may seize anything which is on the premises if he has reasonable grounds for believing—

- (a) that it has been obtained in consequence of the commission of an offence; and
- (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) The constable may seize anything which is on the premises if he has reasonable grounds for believing—

- (a) that it is evidence in relation to an offence which he is investigating or any other offence; and
- (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, damaged, altered or destroyed.

(4) The constable may require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible if he has reasonable grounds for believing—

- (a) that—
 - (i) it is evidence in relation to an offence which he is investigating or any other offence; or
 - (ii) it has been obtained in consequence of the commission of an offence; and
- (b) that it is necessary to do so in order to prevent it being concealed, lost, tampered with or destroyed.

(5) The powers conferred by this Article are in addition to any power otherwise conferred.

(6) No power of seizure conferred on a constable under any statutory provision (including a statutory provision passed or made after the making of this Order) is to be taken to authorise the seizure of an item which the constable exercising the power has reasonable grounds for believing to be subject to legal privilege.

Extension of powers of seizure to computerised information

22.—(1) Every power of seizure which is conferred by a statutory provision to which this Article applies on a constable who has entered premises in the exercise of a power conferred by a statutory provision shall be construed as including a power to require any information contained in a computer and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible.

(2) This Article applies—

- (a) to any statutory provision passed or made before the making of this Order;
- (b) to Articles 10 and 20;
- (c) to paragraph 10 of Schedule 1; and
- (d) to any statutory provision passed or made after the making of this Order.

Access and copying

23.—(1) A constable who seizes anything in the exercise of a power conferred by any statutory provision, including a statutory provision passed or made after the making of this Order, shall, if so requested by a person showing himself—

- (a) to be the occupier of premises on which it was seized; or
- (b) to have had custody or control of it immediately before the seizure,

provide that person with a record of what he seized.

(2) The constable shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to paragraph (8), if a request for permission to be granted access to anything which—

- (a) has been seized by a constable; and
- (b) is retained by the police for the purpose of investigating an offence,

is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of a constable.

(4) Subject to paragraph (8), if a request for a photograph or copy of any such thing is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized, or by someone acting on behalf of such a person, the officer shall—

- (a) allow the person who made the request access to it under the supervision of a constable for the purpose of photographing or copying it; or
- (b) photograph or copy it, or cause it to be photographed or copied.

(5) A constable may also photograph or copy, or have photographed or copied, anything which he has power to seize, without a request being made under paragraph (4).

(6) Where anything is photographed or copied under paragraph (4)(b), the photograph or copy shall be supplied to the person who made the request.

(7) The photograph or copy shall be so supplied within a reasonable time from the making of the request.

(8) There is no duty under this Article to grant access to, or to supply a photograph or copy of, anything if the officer in charge of the investigation for the purposes of which it was seized has reasonable grounds for believing that to do so would prejudice—

- (a) that investigation;

- (b) the investigation of an offence other than the offence for the purposes of investigating which the thing was seized; or
- (c) any criminal proceedings which may be brought as a result of—
 - (i) the investigation of which he is in charge; or
 - (ii) any such investigation as is mentioned in sub-paragraph (b).

Retention

24.—(1) Subject to paragraph (4), anything which has been seized by a constable or taken away by a constable following a requirement made by virtue of Article 21 or 22 may be retained so long as is necessary in all the circumstances.

(2) Without prejudice to the generality of paragraph (1)—

- (a) anything seized for the purposes of a criminal investigation may be retained, except as provided by paragraph (4)—
 - (i) for use as evidence at a trial for an offence; or
 - (ii) for forensic examination or for investigation in connection with an offence; and
- (b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.

(3) Nothing seized on the ground that it may be used—

- (a) to cause physical injury to any person;
- (b) to damage property;
- (c) to interfere with evidence; or
- (d) to assist in escape from police detention or lawful custody,

may be retained when the person from whom it was seized is no longer in police detention or the custody of a court or is in the custody of a court but has been released on bail.

(4) Nothing may be retained for either of the purposes mentioned in paragraph (2)(a) if a photograph or copy would be sufficient for that purpose.

(5) Nothing in this Article affects any power of a court to make an order under section 1 of the Police (Property) Act 1897⁽¹⁸⁾.

Supplementary

Meaning of “premises” etc.

25. In this Order—

“premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any offshore installation; and
- (c) any tent or movable structure; and

“offshore installation” has the meaning given to it by section 1 of the Mineral Workings (Offshore Installations) Act 1971⁽¹⁹⁾.

⁽¹⁸⁾ 1897 c. 30

⁽¹⁹⁾ 1971 c. 61

PART IV

ARREST

Arrest without warrant for arrestable offences

26.—(1) The powers of summary arrest conferred by the following paragraphs shall apply—

- (a) to offences for which the sentence is fixed by law;
- (b) to offences for which a person of 21 years of age or over (not previously convicted) may be sentenced to imprisonment for a term of five years (or might be so sentenced but for the restrictions imposed by Article 46(4) of the Magistrates' Courts (Northern Ireland) Order 1981)**(20)**; and
- (c) to the offences to which paragraph (2) applies,

and in this Order “arrestable offence” means any such offence.

(2) The offences to which this paragraph applies are—

- (a) offences for which a person may be arrested under the customs and excise Acts, as defined in section 1(1) of the Customs and Excise Management Act 1979**(21)**;
- (b) offences under the Official Secrets Act 1920**(22)** that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them;
- (c) offences under any provision of the Official Secrets Act 1989, except section 8(1), (4) or (5);
- (d) offences under section 2 of the Criminal Law Amendment Act 1885**(23)** (procuration); and
- (e) offences under Article 172 of the Road Traffic (Northern Ireland) Order 1981**(24)** (taking motor vehicle or other conveyance without authority etc.) or under section 12(2) (taking of vehicles and other conveyances without authority) or section 24(1) (going equipped for stealing, etc.) of the Theft Act (Northern Ireland) 1969**(25)**.

(3) Without prejudice to Article 4 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983**(26)**, the powers of summary arrest conferred by the following paragraphs shall also apply to the offences of—

- (a) conspiring to commit any of the offences mentioned in paragraph (2);
- (b) attempting to commit any such offence;
- (c) inciting, aiding, abetting, counselling or procuring the commission of any such offence;

and such offences are also arrestable offences for the purposes of this Order.

(4) Any person may arrest without a warrant—

- (a) anyone who is in the act of committing an arrestable offence;
- (b) anyone whom he has reasonable grounds for suspecting to be committing such an offence.

(5) Where an arrestable offence has been committed, any person may arrest without a warrant—

- (a) anyone who is guilty of the offence;
- (b) anyone whom he has reasonable grounds for suspecting to be guilty of it.

(20) 1981 NI 26

(21) 1979 c. 2

(22) 1920 c. 75

(23) 1885 c. 69

(24) 1981 NI 1

(25) 1969 c. 16 (N.I.)

(26) 1983 NI 13

(6) Where a constable has reasonable grounds for suspecting that an arrestable offence has been committed, he may arrest without a warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence.

(7) A constable may arrest without a warrant—

- (a) anyone who is about to commit an arrestable offence;
- (b) anyone whom he has reasonable grounds for suspecting to be about to commit an arrestable offence.

General arrest conditions

27.—(1) Where a constable has reasonable grounds for suspecting that any offence which is not an arrestable offence has been committed or attempted, or is being committed or attempted, he may arrest the relevant person if it appears to him that service of a summons is impracticable or inappropriate because any of the general arrest conditions is satisfied.

(2) In this Article “the relevant person” means any person whom the constable has reasonable grounds to suspect of having committed or having attempted to commit the offence or of being in the course of committing or attempting to commit it.

(3) The general arrest conditions are—

- (a) that the name of the relevant person is unknown to, and cannot be readily ascertained by, the constable;
- (b) that the constable has reasonable grounds for doubting whether a name furnished by the relevant person as his name is his real name;
- (c) that—
 - (i) the relevant person has failed to furnish a satisfactory address for service; or
 - (ii) the constable has reasonable grounds for doubting whether an address furnished by the relevant person is a satisfactory address for service;
- (d) that the constable has reasonable grounds for believing that arrest is necessary to prevent the relevant person—
 - (i) causing physical injury to himself or any other person;
 - (ii) suffering physical injury;
 - (iii) causing loss of or damage to property;
 - (iv) committing an offence against public decency; or
 - (v) causing an unlawful obstruction on a road (within the meaning of Article 2(2) of the Road Traffic (Northern Ireland) Order 1981(27));
- (e) that the constable has reasonable grounds for believing that arrest is necessary to protect a child or other vulnerable person from the relevant person.

(4) For the purposes of paragraph (3) an address is a satisfactory address for service if it appears to the constable—

- (a) that the relevant person will be at it for a sufficiently long period for it to be possible to serve him with a summons; or
- (b) that some other person specified by the relevant person will accept service of a summons for the relevant person at it.

(5) Nothing in paragraph (3)(d) authorises the arrest of a person under head (iv) of that subparagraph except where members of the public going about their normal business cannot reasonably be expected to avoid the person to be arrested.

(6) This Article shall not prejudice any power of arrest conferred apart from this Article.

Repeal of statutory powers of arrest without warrant or order

28.—(1) Subject to paragraph (2), so much of any statutory provision passed or made before the making of this Order as enables a constable by virtue of his office as such—

- (a) to arrest a person for an offence without a warrant; or
- (b) to arrest a person otherwise than for an offence without a warrant or an order of a court,

shall cease to have effect.

(2) Nothing in paragraph (1) shall affect the statutory provisions specified in Schedule 2.

Fingerprinting of certain offenders

29.—(1) If a person—

- (a) has been convicted of a recordable offence;
- (b) has not at any time been in police detention for the offence; and
- (c) has not had his fingerprints taken—
 - (i) in the course of the investigation of the offence by the police; or
 - (ii) since the conviction,

any constable may at any time not later than one month after the date of the conviction require him to attend a police station in order that his fingerprints may be taken.

(2) A requirement under paragraph (1)—

- (a) shall give the person a period of at least 7 days within which he must so attend; and
- (b) may direct him to so attend at a specified time of day or between specified times of day.

(3) Any constable may arrest without warrant a person who has failed to comply with a requirement under paragraph (1).

(4) Subject to Article 89, the Secretary of State may by regulations make provision for recording in police records convictions for such offences as are specified in the regulations.

Information to be given on arrest

30.—(1) Subject to paragraph (5), where a person is arrested, otherwise than by being informed that he is under arrest, the arrest is not lawful unless the person arrested is informed that he is under arrest as soon as is practicable after his arrest.

(2) Where a person is arrested by a constable, paragraph (1) applies regardless of whether the fact of the arrest is obvious.

(3) Subject to paragraph (5) and without prejudice to section 14(2) of the Northern Ireland (Emergency Provisions) Act 1978(28), no arrest is lawful unless the person arrested is informed of the ground for the arrest at the time of, or as soon as is practicable after, the arrest.

(4) Where a person is arrested by a constable, paragraph (3) applies regardless of whether the ground for the arrest is obvious.

(5) Nothing in this Article is to be taken to require a person to be informed—

- (a) that he is under arrest; or
- (b) of the ground for the arrest,

if it was not reasonably practicable for him to be so informed by reason of his having escaped from arrest before the information could be given.

Voluntary attendance at police station etc.

31. Where for the purpose of assisting with an investigation a person attends voluntarily at a police station or at any other place where a constable is present or accompanies a constable to a police station or any such other place without having been arrested—

- (a) he shall be entitled to leave at will unless he is placed under arrest;
- (b) he shall be informed at once that he is under arrest if a decision is taken by a constable to prevent him from leaving at will.

Arrest elsewhere than at police station

32.—(1) Subject to the following provisions of this Article, where a person—

- (a) is arrested by a constable for an offence; or
- (b) is taken into custody by a constable after being arrested for an offence by a person other than a constable,

at any place other than a police station, he shall be taken to a police station by a constable as soon as practicable after the arrest.

(2) Subject to paragraphs (3) and (6), the police station to which an arrested person is taken under paragraph (1) shall be a designated police station.

(3) A constable to whom this paragraph applies may take an arrested person to any police station unless it appears to the constable that it may be necessary to keep the arrested person in police detention for more than six hours.

(4) Paragraph (3) applies—

- (a) to a constable who is working in a locality covered by a police station which is not a designated police station; and
- (b) to a constable belonging to a constabulary not maintained by the Police Authority.

(5) Any constable may take an arrested person to any police station if—

- (a) either of the following conditions is satisfied—
 - (i) the constable has arrested him without the assistance of any other constable and no other constable is available to assist him;
 - (ii) the constable has taken him into custody from a person other than a constable without the assistance of any other constable and no other constable is available to assist him; and
- (b) it appears to the constable that he will be unable to take the arrested person to a designated police station without the arrested person injuring himself, the constable or some other person.

(6) Any constable may take an arrested person to any police station if it appears to the constable that he will be unable to take the arrested person to a designated police station without exposing the arrested person or himself to an unacceptable risk of injury.

(7) If the first police station to which an arrested person is taken after his arrest is not a designated police station, he shall be taken to a designated police station not more than six hours after his arrival at the first police station unless—

- (a) he is released previously; or
- (b) the arrest was made by a police officer and the continued detention at the first police station is authorised by an officer not below the rank of superintendent.

(8) For the purposes of paragraph (7)(b) such an officer may authorise the continued detention of a person at the first police station to which the person is taken only if that officer is satisfied on reasonable grounds that it would expose the person, and those accompanying him, to an unacceptable risk of injury if he were to be taken from the first police station.

(9) Where the continued detention of a person at the first police station is authorised under paragraph (8), the police officer who gave the authorisation shall—

- (a) as soon as practicable thereafter, make a record of—
 - (i) the time at which the authorisation was given, and
 - (ii) the reasons for giving it; and
- (b) revoke that authorisation as soon as he is satisfied that the reasons for giving it no longer apply.

(10) A person arrested by a constable at a place other than a police station shall be released if a constable is satisfied, before the person arrested reaches a police station, that there are no grounds for keeping him under arrest.

(11) A constable who releases a person under paragraph (10) shall record the fact that he has done so.

(12) The constable shall make the record as soon as is practicable after the release.

(13) Nothing in paragraph (1) shall prevent a constable delaying taking a person who has been arrested to a police station if the presence of that person elsewhere is necessary in order to carry out such investigations as it is reasonable to carry out immediately.

(14) Where there is delay in taking a person who has been arrested to a police station after his arrest, the reasons for the delay shall be recorded when he first arrives at a police station.

(15) Nothing in paragraph (1) shall be taken to affect—

- (a) paragraph 16(3) or 18(1) of Schedule 2 to the Immigration Act 1971⁽²⁹⁾; or
- (b) section 15(6) and (9) of the Prevention of Terrorism (Temporary Provisions) Act 1989⁽³⁰⁾ and paragraphs 7(4) and 8(4) and (5) of Schedule 2 and paragraphs 6(6) and 7(4) and (5) of Schedule 5 to that Act.

(16) Nothing in paragraph (13) shall be taken to affect paragraph 18(3) of Schedule 2 to the Immigration Act 1971.

Arrest for further offence

33. Where—

- (a) a person—
 - (i) has been arrested for an offence; and
 - (ii) is at a police station in consequence of that arrest; and
- (b) it appears to a constable that, if he were released from that arrest, he would be liable to arrest for some other offence,

he shall be arrested for that other offence.

⁽²⁹⁾ 1971 c. 77

⁽³⁰⁾ 1989 c. 4

Search upon arrest

34.—(1) A constable may search an arrested person, in any case where the person to be searched has been arrested at a place other than a police station, if the constable has reasonable grounds for believing that the arrested person may present a danger to himself or others.

(2) Subject to paragraphs (3) to (5), a constable shall also have power in any such case—

(a) to search the arrested person for anything—

(i) which he might use to assist him to escape from lawful custody; or

(ii) which might be evidence relating to an offence; and

(b) to enter and search any premises in which he was when arrested or immediately before he was arrested for evidence relating to the offence for which he has been arrested.

(3) The power to search conferred by paragraph (2) is only a power to search to the extent that is reasonably required for the purpose of discovering any such thing or any such evidence.

(4) The powers conferred by this Article to search a person are not to be construed 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.

(5) A constable may not search a person in the exercise of the power conferred by sub-paragraph (a) of paragraph (2) unless he has reasonable grounds for believing that the person to be searched may have concealed on him anything for which a search is permitted under that sub-paragraph.

(6) A constable may not search premises in the exercise of the power conferred by sub-paragraph (b) of paragraph (2) unless he has reasonable grounds for believing that there is evidence for which a search is permitted under that paragraph on the premises.

(7) In so far as the power of search conferred by sub-paragraph (b) of paragraph (2) relates to premises consisting of two or more separate dwellings, it is limited to a power to search—

(a) any dwelling in which the arrest took place or in which the person arrested was immediately before his arrest; and

(b) any parts of the premises which the occupier of any such dwelling uses in common with the occupiers of any other dwellings comprised in the premises.

(8) A constable searching a person in the exercise of the power conferred by paragraph (1) may seize and retain anything he finds, if he has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or to any other person.

(9) A constable searching a person in the exercise of the power conferred by sub-paragraph (a) of paragraph (2) may seize and retain anything he finds, other than an item subject to legal privilege, if he has reasonable grounds for believing—

(a) that he might use it to assist him to escape from lawful custody; or

(b) that it is evidence of an offence or has been obtained in consequence of the commission of an offence.

(10) Nothing in this Article shall be taken to affect the powers conferred by section 15(3), (4) and (5) of the Prevention of Terrorism (Temporary Provisions) Act 1989(31).

PART V

DETENTION

Detention—conditions and duration

Limitations on police detention

35.—(1) A person arrested for an offence shall not be kept in police detention except in accordance with the provisions of this Part.

(2) Subject to paragraph (3), if at any time a custody officer—

- (a) becomes aware, in relation to any person in police detention, that the grounds for the detention of that person have ceased to apply; and
- (b) is not aware of any other grounds on which the continued detention of that person could be justified under the provisions of this Part,

it shall be the duty of the custody officer, subject to paragraph (4), to order his immediate release from custody.

(3) No person in police detention shall be released except on the authority of a custody officer at the police station where his detention was authorised or, if it was authorised at more than one station, a custody officer at the station where it was last authorised.

(4) Nothing in this Part requires the release of a person who appears to the custody officer to have been unlawfully at large when he was arrested.

(5) Subject to paragraph (6), a person whose release is ordered under paragraph (2) shall be released without bail.

(6) Where—

- (a) it appears to the custody officer—
 - (i) that there is need for further investigation of any matter in connection with which that person was detained at any time during his detention; or
 - (ii) that proceedings may be taken against that person in respect of any such matter; and
- (b) the custody officer considers that, having regard to all the circumstances, that person should be released only on bail,

the custody officer shall so release that person.

(7) For the purposes of this Part a person arrested under Article 146(3)(b) of the Road Traffic (Northern Ireland) Order 1981⁽³²⁾ is arrested for an offence.

Designated police stations

36.—(1) The Chief Constable shall designate the police stations which, subject to Article 32(3), (5) and (6), are to be used for the purpose of detaining arrested persons.

(2) The Chief Constable's duty under paragraph (1) is to designate police stations appearing to him to provide enough accommodation for that purpose.

(3) Without prejudice to section 17(1) and (3) of the Interpretation Act (Northern Ireland) 1954⁽³³⁾ the Chief Constable—

- (a) may designate a station which was not previously designated; and

⁽³²⁾ 1981 NI 1

⁽³³⁾ 1954 c. 33 (N.I.)

(b) may direct that a designation of a station previously made shall cease to operate.

(4) In this Order “designated police station” means a police station for the time being designated under this Article.

Custody officers at police stations

37.—(1) One or more custody officers shall be appointed for each designated police station.

(2) A custody officer for a designated police station shall be appointed—

(a) by the Chief Constable; or

(b) by such other police officer as the Chief Constable may direct.

(3) No police officer may be appointed a custody officer unless he is of at least the rank of sergeant.

(4) A police officer of any rank may perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.

(5) Subject to the following provisions of this Article and to Article 40(2), none of the functions of a custody officer in relation to a person shall be performed by an officer who at the time when the function falls to be performed is involved in the investigation of an offence for which that person is in police detention at that time.

(6) Nothing in paragraph (5) is to be taken to prevent a custody officer—

(a) performing any function assigned to custody officers—

(i) by this Order; or

(ii) by a code of practice issued under this Order;

(b) carrying out the duty imposed on custody officers by Article 40;

(c) doing anything in connection with the identification of a suspect; or

(d) doing anything under Article 144, 146 or 147 of the Road Traffic (Northern Ireland) Order 1981(34).

(7) Where an arrested person is taken to a police station which is not a designated police station, the functions in relation to him which at a designated police station would be the functions of a custody officer shall be performed—

(a) by an officer who is not involved in the investigation of an offence for which he is in police detention, if such an officer is readily available; and

(b) if no such officer is readily available, by the officer who took him to the station or any other officer.

(8) References to a custody officer in the following provisions of this Order include references to an officer other than a custody officer who is performing the functions of a custody officer by virtue of paragraph (4) or (7).

(9) Where by virtue of paragraph (7) a police officer who took an arrested person to a police station is to perform the functions of a custody officer in relation to him, the officer shall inform an officer who—

(a) is attached to a designated police station; and

(b) is of at least the rank of inspector,

that he is to do so.

(10) The duty imposed by paragraph (9) shall be performed as soon as it is practicable to perform it.

Duties of custody officer before charge

38.—(1) Where—

- (a) a person is arrested for an offence—
 - (i) without a warrant; or
 - (ii) under a warrant not endorsed for bail, or
- (b) a person returns to a police station to answer to bail after having been arrested for an offence,

the custody officer at each police station where he is detained after his arrest shall determine whether he has before him sufficient evidence to charge that person with the offence for which he was arrested and may detain him at the police station for such period as is necessary to enable him to do so.

(2) If the custody officer determines that he does not have such evidence before him, the person arrested shall be released either on bail or without bail, unless the custody officer has reasonable grounds for believing that his detention without being charged 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.

(3) If the custody officer has reasonable grounds for so believing, he may authorise the person arrested to be kept in police detention.

(4) Where a custody officer authorises a person who has not been charged to be kept in police detention, he shall, as soon as is practicable, make a written record of the grounds for the detention.

(5) Subject to paragraph (6), the written record shall be made in the presence of the person arrested who shall at that time be informed by the custody officer of the grounds for his detention.

(6) Paragraph (5) shall not apply where the person arrested 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.

(7) Subject to Article 42(5), if the custody officer determines that he has before him sufficient evidence to charge the person arrested with the offence for which he was arrested, the person arrested—

- (a) shall be charged; or
- (b) shall be released without charge, either on bail or without bail.

(8) Where—

- (a) a person is released under paragraph (7)(b); and
- (b) at the time of his release a decision whether he should be prosecuted for the offence for which he was arrested has not been taken,

it shall be the duty of the custody officer so to inform him.

(9) If the person arrested is not in a fit state to be dealt with under paragraph (7), he may be kept in police detention until he is.

(10) The duty imposed on the custody officer under paragraph (1) shall be carried out by him as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.

(11) Where an arrested juvenile who was arrested without a warrant is not released under paragraph (2), it shall be the duty of the custody officer—

- (a) to inform the arrested juvenile that he has reasonable grounds for believing that his detention is necessary in connection with an offence and to state the offence;
- (b) to take such steps as are practicable to ascertain the identity of a person responsible for the welfare of the arrested juvenile; and
- (c) if—
 - (i) he ascertains the identity of any such person; and
 - (ii) it is practicable to do so,to inform that person, as soon as it is practicable to do so, of the arrest and of the offence alleged to have been committed by the juvenile.

(12) For the purposes of paragraph (11) the persons who may be responsible for the welfare of an arrested juvenile are—

- (a) his parent or guardian; and
- (b) any other person who has for the time being assumed responsibility for his welfare.

(13) If it appears to the custody officer that—

- (a) a supervision order, as defined in section 81 of the Children and Young Persons Act (Northern Ireland) 1968⁽³⁵⁾; or
- (b) a probation order, as defined in section 1 of the Probation Act (Northern Ireland) 1950⁽³⁶⁾;

is in force in respect of an arrested juvenile, the custody officer shall also inform the person responsible for the arrested juvenile's supervision or his probation officer of the arrest and of the offence alleged to have been committed by the juvenile, as soon as it is practicable to do so.

(14) In this Part—

“arrested juvenile” means a person arrested with or without a warrant who appears to be under the age of 17 and is not excluded from this Part by Article 52;

“endorsed for bail” means endorsed with a direction for bail in accordance with Article 129 of the Magistrates' Courts (Northern Ireland) Order 1981⁽³⁷⁾.

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;
 - (ii) the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary for his own protection or to prevent him from causing physical injury to any other person or from causing loss of or damage to property; or
 - (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

⁽³⁵⁾ 1968 c. 34 (N.I.)

⁽³⁶⁾ 1950 c. 7 (N.I.)

⁽³⁷⁾ 1981 NI 26

him from interfering with the administration of justice or with the investigation of offences or of a particular offence;

- (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.

(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.

(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.

(8) In paragraph (6) “place of safety” has the meaning given in section 180(1) of the Children and Young Persons Act (Northern Ireland) 1968(38), but does not include a constabulary station.

Responsibilities in relation to persons detained

40.—(1) Subject to paragraphs (2) and (4), it shall be the duty of the custody officer at a police station to ensure—

- (a) that all persons in police detention at that station are treated in accordance with this Order and any code of practice issued under it and relating to the treatment of persons in police detention; and
- (b) that all matters relating to such persons which are required by this Order or by such codes of practice to be recorded are recorded in the custody records relating to such persons.

(2) If the custody officer, in accordance with any code of practice issued under this Order, transfers or permits the transfer of a person in police detention—

- (a) to the custody of a police officer investigating an offence for which that person is in police detention; or
- (b) to the custody of an officer who has charge of that person outside the police station,

the custody officer shall cease in relation to that person to be subject to the duty imposed on him by paragraph (1)(a); and it shall be the duty of the officer to whom the transfer is made to ensure that he is treated in accordance with the provisions of this Order and of any such codes of practice as are mentioned in paragraph (1).

(3) If the person detained is subsequently returned to the custody of the custody officer, it shall be the duty of the officer investigating the offence to report to the custody officer as to the manner in which this Article and the codes of practice have been complied with while that person was in his custody.

(4) If an arrested juvenile is taken to a place of safety in pursuance of arrangements made under Article 39(6), the custody officer shall cease in relation to that person to be subject to the duty imposed on him by paragraph (1).

(5) Where an arrested juvenile is taken to a place of safety in pursuance of such arrangements, it shall be the duty of the occupier of that place to make available to him such advice and assistance as may be appropriate in the circumstances.

(6) Where—

(a) an officer of higher rank than the custody officer gives directions relating to a person in police detention; and

(b) the directions are at variance—

(i) with any decision made or action taken by the custody officer in the performance of a duty imposed on him under this Part; or

(ii) with any decision or action which would but for the directions have been made or taken by him in the performance of such a duty,

the custody officer shall refer the matter at once to an officer of the rank of superintendent or above who is responsible for the police station for which the custody officer is acting as custody officer.

Review of police detention

41.—(1) Reviews of the detention of each person in police detention in connection with the investigation of an offence shall be carried out periodically in accordance with the following provisions of this Article—

(a) in the case of a person who has been arrested and charged, by the custody officer; and

(b) in the case of a person who has been arrested but not charged, by an officer of at least the rank of inspector who has not been directly involved in the investigation.

(2) The officer to whom it falls to carry out a review is referred to in this Article as a “review officer”.

(3) Subject to paragraph (4)—

(a) the first review shall be not later than six hours after the detention was first authorised;

(b) the second review shall be not later than nine hours after the first;

(c) subsequent reviews shall be at intervals of not more than nine hours.

(4) A review may be postponed—

(a) if, having regard to all the circumstances prevailing at the latest time for it specified in paragraph (3), it is not practicable to carry out the review at that time;

(b) without prejudice to the generality of sub-paragraph (a)—

(i) if at that time the person in detention is being questioned by a police officer and the review officer is satisfied that an interruption of the questioning for the purpose of carrying out the review would prejudice the investigation in connection with which he is being questioned; or

(ii) if at that time no review officer is readily available.

(5) If a review is postponed under paragraph (4) it shall be carried out as soon as practicable after the latest time specified for it in paragraph (3).

(6) If a review is carried out after postponement under paragraph (4), the fact that it was so carried out shall not affect any requirement of this Article as to the time at which any subsequent review is to be carried out.

(7) The review officer shall record the reasons for any postponement of a review in the custody record.

(8) Subject to paragraph (9), where the person whose detention is under review has not been charged before the time of the review, Article 38(1) to (6) shall have effect in relation to him, but with the substitution—

- (a) of references to the person whose detention is under review for references to the person arrested; and
- (b) of references to the review officer for references to the custody officer.

(9) Where a person has been kept in police detention by virtue of Article 38(9), Article 38(1) to (6) shall not have effect in relation to him but it shall be the duty of the review officer to determine whether he is yet in a fit state.

(10) Where the person whose detention is under review has been charged before the time of the review, Article 39(1) to (6) shall have effect in relation to him, but with the substitution of references to the person whose detention is under review for references to the person arrested.

(11) Where—

- (a) an officer of higher rank than the review officer gives directions relating to a person in police detention; and
- (b) the directions are at variance—
 - (i) with any decision made or action taken by the review officer in the performance of a duty imposed on him under this Part; or
 - (ii) with any decision or action which would but for the directions have been made or taken by him in the performance of such a duty,

the review officer shall refer the matter at once to an officer of the rank of superintendent or above who is responsible for the police station for which the review officer is acting as review officer in connection with the detention.

(12) Before determining whether to authorise a person's continued detention the review officer shall give—

- (a) that person (unless he is asleep); or
- (b) any solicitor representing him who is available at the time of the review,

an opportunity to make representations to him about the detention.

(13) Subject to paragraph (14), the person whose detention is under review or his solicitor may make representations under paragraph (12) either orally or in writing.

(14) The review officer may refuse to hear oral representations from the person whose detention is under review if he considers that he is unfit to make such representations by reason of his condition or behaviour.

Limits on period of detention without charge

42.—(1) Subject to the following provisions of this Article and to Articles 43 and 44, a person shall not be kept in police detention for more than 24 hours without being charged.

(2) The time from which the period of detention of a person is to be calculated (in this Order referred to as “the relevant time”)—

- (a) in the case of a person arrested outside Northern Ireland, shall be—

- (i) the time at which that person arrives at the first police station to which he is taken in Northern Ireland; or
- (ii) the time 24 hours after the time of that person's entry into Northern Ireland, whichever is the earlier;
- (b) in the case of a person who—
 - (i) attends voluntarily at a police station; or
 - (ii) accompanies a constable to a police station without having been arrested, and is arrested at the police station, shall be the time of his arrest;
- (c) in any other case, shall be the time at which the person arrested arrives at the first police station to which he is taken after his arrest.

(3) Paragraph (2) shall have effect in relation to a person arrested under Article 33 as if every reference in it to his arrest or his being arrested were a reference to his arrest or his being arrested for the offence for which he was originally arrested.

(4) When a person who is in police detention is removed to hospital because he is in need of medical treatment, any time during which he is being questioned in hospital or on the way there or back by a police officer for the purpose of obtaining evidence relating to an offence shall be included in any period which falls to be calculated for the purposes of this Part, but any other time while he is in hospital or on his way there or back shall not be so included.

(5) Subject to paragraph (6), a person who at the expiry of 24 hours after the relevant time is in police detention and has not been charged shall be released at that time either on bail or without bail.

(6) Paragraph (5) does not apply to a person whose detention for more than 24 hours after the relevant time has been authorised or is otherwise permitted in accordance with Article 43 or 44.

(7) A person released under paragraph (5) 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.

Authorisation of continued detention

43.—(1) Where a police officer of the rank of superintendent or above who is responsible for the police station at which a person is detained has reasonable grounds for believing that—

- (a) the detention of that person 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,

he may authorise the keeping of that person in police detention for a period expiring at or before 36 hours after the relevant time.

(2) Where an officer such as is mentioned in paragraph (1) has authorised the keeping of a person in police detention for a period expiring less than 36 hours after the relevant time, such an officer may authorise the keeping of that person in police detention for a further period expiring not more than 36 hours after that time if the conditions specified in paragraph (1) are still satisfied when he gives the authorisation.

(3) No authorisation under paragraph (1) shall be given in respect of any person—

- (a) more than 24 hours after the relevant time; or
- (b) before the second review of his detention under Article 41 has been carried out.

(4) Where an officer authorises the keeping of a person in police detention under paragraph (1), it shall be his duty—

- (a) to inform that person of the grounds for his continued detention; and
- (b) to record the grounds in that person's custody record.

(5) Before determining whether to authorise the keeping of a person in detention under paragraph (1) or (2), an officer shall give—

- (a) that person; or
- (b) any solicitor representing him who is available at the time when it falls to the officer to determine whether to give the authorisation,

an opportunity to make representations to him about the detention.

(6) Subject to paragraph (7), the person in detention or his solicitor may make representations under paragraph (5) either orally or in writing.

(7) The officer to whom it falls to determine whether to give the authorisation may refuse to hear oral representations from the person in detention if he considers that he is unfit to make such representations by reason of his condition or behaviour.

(8) Where—

- (a) an officer authorises the keeping of a person in detention under paragraph (1); and
- (b) at the time of the authorisation he has not yet exercised a right conferred on him by Article 57 or 59,

the officer—

- (i) shall inform him of that right;
- (ii) shall decide whether he should be permitted to exercise it;
- (iii) shall record the decision in his custody record; and
- (iv) if the decision is to refuse to permit the exercise of the right, shall also record the grounds for the decision in that record.

(9) Where an officer has authorised the keeping of a person who has not been charged in detention under paragraph (1) or (2), he shall be released from detention, either on bail or without bail, not later than 36 hours after the relevant time, unless—

- (a) he has been charged with an offence; or
- (b) his further detention is authorised or otherwise permitted in accordance with Article 44.

(10) A person released under paragraph (9) 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.

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.

Extension of warrants of further detention

- 45.**—(1) On a complaint made in writing by a constable and substantiated on oath, a magistrates' court may extend a warrant of further detention issued under Article 44 if it is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the complaint relates is justified.
- (2) Subject to paragraph (3), the period for which a warrant of further detention may be extended shall be such period as the court thinks fit, having regard to the evidence before it.
- (3) The period shall not—
- (a) be longer than 36 hours; or
 - (b) end later than 96 hours after the relevant time.
- (4) Where a warrant of further detention has been extended under paragraph (1), or further extended under this paragraph, for a period ending before 96 hours after the relevant time, on a complaint such as is mentioned in that paragraph a magistrates' court may further extend the warrant if it is satisfied as there mentioned; and paragraphs (2) and (3) apply to such further extensions as they apply to extensions under paragraph (1).
- (5) A warrant of further detention shall, if extended or further extended under this Article, be endorsed with a note of the period of the extension.
- (6) Paragraphs (2), (3), (13) and (19) of Article 44 shall apply to a complaint made under this Article as they apply to a complaint made under that Article.

(7) Where a complaint under this Article is dismissed, the person to whom the complaint relates shall forthwith be charged or, subject to paragraph (8), released, either on bail or without bail.

(8) A person need not be released under paragraph (7) before the expiry of any period for which a warrant of further detention issued in relation to him has been extended or further extended on an earlier complaint made under this Article.

Detention before charge—supplementary

46. Any reference in this Part to a period of time or a time of day is to be treated as approximate only.

Detention—miscellaneous

Detention after charge

47.—(1) Where a person—

(a) is charged with an offence; and

(b) after being charged—

(i) is kept in police detention; or

(ii) is detained in a place of safety in pursuance of arrangements made under Article 39,

he shall be brought before a magistrates' court in accordance with the provisions of this Article.

(2) If he is to be brought before a magistrates' court for the petty sessions district in which the police station at which he was charged is situated, he shall be brought before such a court as soon as is practicable and in any event not later than the day next following the day on which he is charged with the offence.

(3) If he is to be brought before a magistrates' court for a petty sessions district other than that in which the police station at which he was charged is situated, he shall be removed to that petty sessions district as soon as is practicable and brought before such a court as soon as is practicable after his arrival in that district and in any event not later than the day next following the day of his arrival in that district.

(4) Where the day next following the day on which the person is charged with the offence is Christmas Day, Good Friday or a Sunday, he shall be brought before a magistrates' court on the next following day which is not one of those days.

(5) Nothing in this Article requires a person who is in hospital to be brought before a court if he is not well enough.

Bail after arrest

48.—(1) A person who is released on bail shall be subject to a duty—

(a) to appear before a magistrates' court at such time and at such place as the custody officer may appoint; or

(b) to attend at such police station at such time as the custody officer may appoint.

(2) The time to be appointed under paragraph (1) shall be either the date of the next petty sessions at the place appointed or a date not later than 28 days from the date on which the person is released.

(3) The custody officer may require a person who is to be released on bail, to enter into a recognisance conditioned upon—

(a) his subsequent appearance before a magistrates' court in accordance with subparagraph (a) of paragraph (1); or

(b) his subsequent attendance at a police station in accordance with sub-paragraph (b) of that paragraph,

as the case may be.

(4) A recognisance under paragraph (3) may be taken before the custody officer.

(5) A person entering into a recognisance to appear before a magistrates' court in accordance with sub-paragraph (a) of paragraph (1) shall be deemed for the purpose of Articles 48 and 49 of the Magistrates' Courts (Northern Ireland) Order 1981⁽³⁹⁾ to have been remanded on bail.

(6) Paragraphs (7) to (11) apply to a person who is released on bail (with or without entering into a recognisance) subject to a duty to attend at a police station in accordance with sub-paragraph (b) of paragraph (1).

(7) The custody officer may give notice in writing to such a person as is mentioned in paragraph (6) that his attendance at the police station is not required.

(8) Where it appears to the custody officer that such a person is, by reason of illness or other unavoidable cause, unable to appear at the police station at the time appointed, the custody officer may extend the time for such further period as may appear reasonable in the circumstances.

(9) Where a person is detained under Article 38(3), any time during which he was in police detention prior to being granted bail shall be included as part of any period which falls to be calculated under this Part.

(10) Nothing in this Article shall prevent the re-arrest without warrant of such a person as is mentioned in paragraph (6) if new evidence justifying a further arrest has come to light since his release.

(11) Where such a person is re-arrested, the provisions of this Part shall apply to him as they apply to a person arrested for the first time.

(12) In Article 129 of the Magistrates' Courts (Northern Ireland) Order 1981, for paragraph (2) there shall be substituted the following paragraph—

“(2) Where a warrant has been endorsed for bail under paragraph (1)—

(a) where the person arrested is to be released on bail on his entering into a recognisance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and

(b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.”.

(13) In this Part “bail” means bail granted in accordance with this Article.

Police detention to count towards custodial sentence

49.—(1) In subsection (2) of section 26 of the Treatment of Offenders Act (Northern Ireland) 1968⁽⁴⁰⁾ (computation of custodial sentences) for the words from “period”, in the first place where it occurs, to “the offender” there shall be substituted the words “relevant period, but where he”.

(2) The following subsection shall be inserted after that subsection—

“(2A) In subsection (2) “relevant period” means—

(a) any period during which the offender was in police detention in connection with the offence for which the sentence was passed; or

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- (b) any period during which he was in custody—
 - (i) by reason only of having been committed to custody by an order of a court made in connection with any proceedings relating to that sentence or the offence for which it was passed or any proceedings from which those proceedings arose; or
 - (ii) by reason of his having been so committed and having been concurrently detained otherwise than by order of a court.”.
- (3) The following subsections shall be added after subsection (5) of that section—
 - “(6) A person is in police detention for the purposes of this section—
 - (a) at any time when he is in police detention for the purposes of the Police and Criminal Evidence (Northern Ireland) Order 1989; and
 - (b) at any time when he is detained under section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989.
 - (7) No period of police detention shall be taken into account under this section unless it falls after the coming into operation of Article 49 of the Police and Criminal Evidence (Northern Ireland) Order 1989.”.

Records of detention

- 50.**—(1) The Chief Constable shall keep written records showing on an annual basis—
- (a) the number of persons kept in police detention for more than 24 hours and subsequently released without charge;
 - (b) the number of applications for warrants of further detention and the results of the applications; and
 - (c) in relation to each warrant of further detention—
 - (i) the period of further detention authorised by it;
 - (ii) the period which the person named in it spent in police detention on its authority; and
 - (iii) whether he was charged or released without charge.
- (2) Every annual report under section 15(1) of the Police Act (Northern Ireland) 1970⁽⁴¹⁾ shall contain information about the matters mentioned in paragraph (1) in respect of the period to which the report relates.

Savings

- 51.** Nothing in this Part shall affect—
- (a) the powers conferred on immigration officers by section 4 of and Schedule 2 to the Immigration Act 1971⁽⁴²⁾ (administrative provisions as to control on entry etc.);
 - (b) the powers conferred by or by virtue of section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989⁽⁴³⁾ or Schedule 2 or 5 to that Act (powers of arrest and detention and control of entry and procedure for removal);
 - (c) any duty of a police officer under—
 - (i) section 129, 190 or 202 of the Army Act 1955⁽⁴⁴⁾ (duties of governors of prisons and others to receive prisoners, deserters, absentees and persons under escort);

⁽⁴¹⁾ 1968 c. 29 (N.I.)

⁽⁴²⁾ 1970 c. 9 (N.I.)

⁽⁴³⁾ 1971 c. 77

⁽⁴⁴⁾ 1955 c. 4

- (ii) section 129, 190 or 202 of the Air Force Act 1955⁽⁴⁵⁾ (duties of governors of prisons and others to receive prisoners, deserters, absentees and persons under escort);
 - (iii) section 107 of the Naval Discipline Act 1957⁽⁴⁶⁾ (duties of governors of civil prisons etc.); or
 - (iv) paragraph 5 of Schedule 5 to the Reserve Forces Act 1980⁽⁴⁷⁾ (duties of governors of civil prisons); or
- (d) any right of a person in police detention to apply for a writ of habeas corpus or other prerogative remedy.

Children

52. This Part does not apply to a child apparently under the age of 14 who is arrested without a warrant for an offence other than homicide and to whom section 50 of the Children and Young Persons Act (Northern Ireland) 1968⁽⁴⁸⁾ accordingly applies.

PART VI

QUESTIONING AND TREATMENT OF PERSONS BY POLICE

Interpretation of Part VI

53. In this Part—

“appropriate consent” means—

- (a) in relation to a person who has attained the age of 17 years, the consent of that person;
- (b) in relation to a person who has not attained that age but has attained the age of 14 years, the consent of that person and his parent or guardian; and
- (c) in relation to a person who has not attained the age of 14 years, the consent of his parent or guardian;

“fingerprints” includes palm prints;

“intimate sample” means a sample of blood, semen or any other tissue fluid, urine or pubic hair, or a swab taken from any of a person’s body orifices except his mouth;

“medical practitioner” means a fully registered person within the meaning of the Medical Act 1983⁽⁴⁹⁾;

“non-intimate sample” means—

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a sample of saliva;
- (d) a swab taken from a person’s mouth;
- (e) a swab taken from any other part of a person’s body except a body orifice other than his mouth;

⁽⁴⁵⁾ 1955 c. 18

⁽⁴⁶⁾ 1955 c. 19

⁽⁴⁷⁾ 1957 c. 53

⁽⁴⁸⁾ 1968 c. 9

⁽⁴⁹⁾ 1968 c. 34 (N.I.)

- (f) a footprint or a similar impression of any part of a person's body other than a part of his hand.

Abolition of certain powers of constables to search persons

54.—(1) Subject to paragraph (2), there shall cease to have effect any statutory provision made before the date of the coming into operation of this Order in so far as it authorises—

- (a) any search by a constable of a person in police detention at a police station; or
- (b) an intimate search of a person by a constable;

and any rule of common law which authorises a search such as is mentioned in sub-paragraph (a) or (b) is abolished.

(2) Nothing in paragraph (1)(a) shall affect section 15(3)(b) of the Northern Ireland (Emergency Provisions) Act 1978(**50**) or section 15(3), (4) or (5) of the Prevention of Terrorism (Temporary Provisions) Act 1989(**51**).

Searches of detained persons

55.—(1) The custody officer at a police station shall ascertain and record or cause to be recorded everything which a person has with him when he is—

- (a) brought to the station after being arrested elsewhere or after being committed to custody by an order or sentence of a court; or
- (b) arrested at the station or detained there under Article 38(3).

(2) In the case of an arrested person the record shall be made as part of his custody record.

(3) Subject to paragraph (4), a custody officer may seize and retain any such thing or cause any such thing to be seized and retained.

(4) Clothes and personal effects may only be seized if the custody officer—

- (a) believes that the person from whom they are seized may use them—
 - (i) to cause physical injury to himself or any other person;
 - (ii) to damage property;
 - (iii) to interfere with evidence; or
 - (iv) to assist him to escape; or
- (b) has reasonable grounds for believing that they may be evidence relating to an offence.

(5) Where anything is seized, the person from whom it is seized shall be told the reason for the seizure unless he is—

- (a) violent or likely to become violent; or
- (b) incapable of understanding what is said to him.

(6) Subject to paragraph (10), a person may be searched if the custody officer considers it necessary to enable him to carry out his duty under paragraph (1) and to the extent that the custody officer considers necessary for that purpose.

(7) A person who is in custody at a police station or is in police detention otherwise than at a police station may at any time be searched in order to ascertain whether he has with him anything which he could use for any of the purposes specified in paragraph (4)(a).

(50) 1983 c. 54

(51) 1978 c. 5

(8) Subject to paragraph (9), a constable may seize and retain, or cause to be seized and retained, anything found on such a search.

(9) A constable may only seize clothes and personal effects in the circumstances specified in paragraph (4).

(10) An intimate search may not be conducted under this Article.

(11) A search under this Article shall be carried out by a constable.

(12) The constable carrying out a search shall be of the same sex as the person searched.

Intimate searches

56.—(1) Subject to the following provisions of this Article, if an officer of at least the rank of superintendent has reasonable grounds for believing—

(a) that a person who has been arrested and is in police detention may have concealed on him anything which—

(i) he could use to cause physical injury to himself or others; and

(ii) he might so use while he is in police detention or in the custody of a court; or

(b) that such a person—

(i) may have a Class A drug concealed on him; and

(ii) was in possession of it with the appropriate criminal intent before his arrest,

he may authorise an intimate search of that person.

(2) An officer may not authorise an intimate search of a person for anything unless he has reasonable grounds for believing that it cannot be found without his being intimately searched.

(3) An officer may give an authorisation under paragraph (1) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as practicable.

(4) An intimate search which is only a drug offence search shall be by way of examination by a suitably qualified person.

(5) Except as provided by paragraph (4), an intimate search shall be by way of examination by a suitably qualified person unless an officer of at least the rank of superintendent considers that this is not practicable.

(6) An intimate search which is not carried out as mentioned in paragraph (5) shall be carried out by a constable.

(7) A constable may not carry out an intimate search of a person of the opposite sex.

(8) No intimate search may be carried out except—

(a) at a police station;

(b) at a hospital;

(c) at a medical practitioner's surgery; or

(d) at some other place used for medical purposes.

(9) An intimate search which is only a drug offence search may not be carried out at a police station.

(10) If an intimate search of a person is carried out, the custody record relating to him shall state—

(a) which parts of his body were searched; and

(b) why they were searched.

(11) The information required to be recorded by paragraph (10) shall be recorded as soon as practicable after the completion of the search.

(12) The custody officer at a police station may seize and retain anything which is found on an intimate search of a person, or cause any such thing to be seized and retained—

(a) if he believes that the person from whom it is seized may use it—

(i) to cause physical injury to himself or any other person;

(ii) to damage property;

(iii) to interfere with evidence; or

(iv) to assist him to escape; or

(b) if he has reasonable grounds for believing that it may be evidence relating to an offence.

(13) Where anything is seized under this Article, the person from whom it is seized shall be told the reason for the seizure unless he is—

(a) violent or likely to become violent; or

(b) incapable of understanding what is said to him.

(14) Every annual report under section 15(1) of the Police Act (Northern Ireland) 1970⁽⁵²⁾ shall contain information about searches under this Article which have been carried out during the period to which the report relates.

(15) The information about such searches shall include—

(a) the total number of searches;

(b) the number of searches conducted by way of examination by a suitably qualified person;

(c) the number of searches not so conducted but conducted in the presence of such a person; and

(d) the result of the searches carried out.

(16) The information shall also include, as separate items—

(a) the total number of drug offence searches; and

(b) the result of those searches.

(17) In this Article—

“the appropriate criminal intent” means an intent to commit an offence under—

(a) section 5(3) of the Misuse of Drugs Act 1971⁽⁵³⁾ (possession of controlled drug with intent to supply to another); or

(b) section 68(2) of the Customs and Excise Management Act 1979⁽⁵⁴⁾ (exportation etc. with intent to evade a prohibition or restriction);

“Class A drug” has the meaning assigned to it by section 2(1)(b) of the Misuse of Drugs Act 1971;

“drug offence search” means an intimate search for a Class A drug which an officer has authorised by virtue of paragraph (1)(b); and

“suitably qualified person” means—

(a) a medical practitioner; or

(b) a nurse registered as such under section 10(1) of the Nurses, Midwives and Health Visitors Act 1979⁽⁵⁵⁾.

(52) 1989 c. 4
(53) 1970 c. 9 (N.I.)
(54) 1971 c. 38
(55) 1979 c. 2

Right to have someone informed when arrested

57.—(1) Where a person has been arrested and is being held in custody in a police station or other premises, he shall be entitled, if he so requests, to have one friend or relative or other person who is known to him or who is likely to take an interest in his welfare told, as soon as is practicable except to the extent that delay is permitted by this Article, that he has been arrested and is being detained there.

(2) Delay is only permitted—

- (a) in the case of a person who is in police detention for a serious arrestable offence; and
- (b) if an officer of at least the rank of superintendent authorises it.

(3) In any case the person in custody must be permitted to exercise the right conferred by paragraph (1) within 36 hours from the relevant time, as defined in Article 42(2).

(4) An officer may give an authorisation under paragraph (2) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(5) An officer may only authorise delay where he has reasonable grounds for believing that telling the named person of the arrest—

- (a) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical injury to other persons; or
- (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
- (c) will hinder the recovery of any property obtained as a result of such an offence.

(6) If a delay is authorised—

- (a) the detained person shall be told the reason for it; and
- (b) the reason shall be noted on his custody record.

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

(8) The rights conferred by this Article on a person detained at a police station or other premises are exercisable whenever he is transferred from one place to another; and this Article applies to each subsequent occasion on which they are exercisable as it applies to the first such occasion.

(9) There may be no further delay in permitting the exercise of the right conferred by paragraph (1) once the reason for authorising delay ceases to subsist.

(10) Nothing in this Article applies to a person arrested or detained under the terrorism provisions.

Additional rights of children and young persons

58. The following subsections shall be substituted for subsection (2) of section 52 of the Children and Young Persons Act (Northern Ireland) 1968⁽⁵⁶⁾—

“(2) Where a child or young person is in police detention, such steps as are practicable shall be taken to ascertain the identity of a person responsible for his welfare.

(3) If it is practicable to ascertain the identity of a person responsible for the welfare of the child or young person, that person shall be informed, unless it is not practicable to do so—

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

(4) Where information falls to be given under subsection (3), it shall be given as soon as it is practicable to do so.

(5) For the purposes of this section the persons who may be responsible for the welfare of a child or young person are—

- (a) his parent or guardian; or
- (b) any other person who has for the time being assumed responsibility for his welfare.

(6) If it is practicable to give a person responsible for the welfare of the child or young person the information required by subsection (3), that person shall be given it as soon as it is practicable to do so.

(7) If it appears that at the time of his arrest a supervision order or a probation order is in force in respect of him, the person responsible for his supervision or his probation officer shall also be informed as described in subsection (3) as soon as it is reasonably practicable to do so.

(8) The reference to a parent or guardian in subsection (5) is—

- (a) in the case of a child or young person in the care of the Department of Health and Social Services, a reference to that Department; and
- (b) in the case of a child or young person in the care of a Health and Social Services Board, that Board.

(9) The rights conferred on a child or young person by subsections (2) to (8) are in addition to his rights under Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989.

(10) The reference in subsection (2) to a child or young person who is in police detention includes a reference to a child or young person who has been detained under the terrorism provisions; and in subsection (3) “arrest” includes such detention.

(11) In subsection (10) “the terrorism provisions” has the meaning assigned to it by Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989.”

Access to legal advice

59.—(1) A person arrested and held in custody in a police station or other premises shall be entitled, if he so requests, to consult a solicitor privately at any time.

(2) Subject to paragraph (3), a request under paragraph (1) and the time at which it was made shall be recorded in the custody record.

(3) Such a request need not be recorded in the custody record of a person who makes it at a time while he is at a court after being charged with an offence.

(4) If a person makes such a request, he must be permitted to consult a solicitor as soon as is practicable except to the extent that delay is permitted by this Article.

(5) In any case he must be permitted to consult a solicitor within 36 hours from the relevant time, as defined in Article 42(2).

(6) Delay in compliance with a request is only permitted—

- (a) in the case of a person who is in police detention for a serious arrestable offence; and
- (b) if an officer of at least the rank of superintendent authorises it.

(7) An officer may give an authorisation under paragraph (6) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(8) An officer may only authorise delay where he has reasonable grounds for believing that the exercise of the right conferred by paragraph (1) at the time when the person detained desires to exercise it—

- (a) will lead to interference with or harm to evidence connected with a serious arrestable offence or interference with or physical injury to other persons; or
- (b) will lead to the alerting of other persons suspected of having committed such an offence but not yet arrested for it; or
- (c) will hinder the recovery of any property obtained as a result of such an offence.

(9) If the delay is authorised—

- (a) the detained person shall be told the reason for it; and
- (b) the reason shall be noted on his custody record.

(10) The duties imposed by paragraph (9) shall be performed as soon as practicable.

(11) There shall be no further delay in permitting the exercise of the right conferred by paragraph (1) once the reason for authorising delay ceases to subsist.

(12) Nothing in this Article applies to a person arrested or detained under the terrorism provisions.

Tape-recording of interviews

60. Subject to Article 66(12), it shall be the duty of the Secretary of State—

- (a) to issue a code of practice in connection with the tape-recording of interviews of persons suspected of the commission of criminal offences which are held by police officers at police stations; and
- (b) to make an order (subject to Article 89) requiring the tape-recording of interviews of persons suspected of the commission of criminal offences, or of such descriptions of criminal offences as may be specified in the order, which are so held, in accordance with the code as it has effect for the time being.

Fingerprinting

61.—(1) Except as provided by this Article no person's fingerprints may be taken without the appropriate consent.

(2) Consent to the taking of a person's fingerprints must be in writing if it is given at a time when he is at a police station.

(3) The fingerprints of a person detained at a police station may be taken without the appropriate consent—

- (a) if an officer of at least the rank of superintendent authorises them to be taken; or
- (b) if—
 - (i) he has been charged with a recordable offence or informed that he will be reported for such an offence; and
 - (ii) he has not had his fingerprints taken in the course of the investigation of the offence by the police.

(4) An officer may only give an authorisation under paragraph (3)(a) if he has reasonable grounds—

- (a) for suspecting the involvement of the person whose fingerprints are to be taken in a criminal offence; and
- (b) for believing that his fingerprints will tend to confirm or disprove his involvement.

(5) An officer may give an authorisation under paragraph (3)(a) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(6) Any person's fingerprints may be taken without the appropriate consent if he has been convicted of a recordable offence.

(7) In a case where by virtue of paragraph (3) or (6) a person's fingerprints are taken without the appropriate consent—

(a) he shall be told the reason before his fingerprints are taken; and

(b) the reason shall be recorded as soon as is practicable after the fingerprints are taken.

(8) If he is detained at a police station when the fingerprints are taken, the reason for taking them shall be recorded on his custody record.

(9) Nothing in this Article—

(a) affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971; or

(b) applies to a person arrested or detained under the terrorism provisions.

Intimate samples

62.—(1) An intimate sample may be taken from a person in police detention only—

(a) if a police officer of at least the rank of superintendent authorises it to be taken; and

(b) if the appropriate consent is given.

(2) An officer may only give an authorisation if he has reasonable grounds—

(a) for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence; and

(b) for believing that the sample will tend to confirm or disprove his involvement.

(3) An officer may give an authorisation under paragraph (1) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(4) The appropriate consent must be given in writing.

(5) Where—

(a) an authorisation has been given; and

(b) it is proposed that an intimate sample shall be taken in pursuance of the authorisation,

an officer shall inform the person from whom the sample is to be taken—

(i) of the giving of the authorisation; and

(ii) of the grounds for giving it.

(6) The duty imposed by paragraph (5)(ii) includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(7) If an intimate sample is taken from a person—

(a) the authorisation by virtue of which it was taken;

(b) the grounds for giving the authorisation; and

(c) the fact that the appropriate consent was given,

shall be recorded as soon as is practicable after the sample is taken.

(8) If an intimate sample is taken from a person detained at a police station, the matters required to be recorded by paragraph (7) shall be recorded in his custody record.

(9) An intimate sample, other than a sample of urine, may only be taken from a person by a medical practitioner.

(10) Where the appropriate consent to the taking of an intimate sample from a person was refused without good cause, in any proceedings against that person for an offence—

- (a) the court, in determining—
 - (i) whether to commit that person for trial; or
 - (ii) whether there is a case to answer; and

(b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper; and the refusal may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence against the person in relation to which the refusal is material.

(11) Nothing in this Article affects Articles 141 to 152 of the Road Traffic (Northern Ireland) Order 1981(57).

Other samples

63.—(1) Except as provided by this Article, a non-intimate sample may not be taken from a person without the appropriate consent.

(2) Consent to the taking of a non-intimate sample must be given in writing.

(3) A non-intimate sample may be taken from a person without the appropriate consent if—

- (a) he is in police detention; and
- (b) an officer of at least the rank of superintendent authorises it to be taken without the appropriate consent.

(4) An officer may only give an authorisation under paragraph (3) if he has reasonable grounds—

- (a) for suspecting the involvement of the person from whom the sample is to be taken in a serious arrestable offence; and
- (b) for believing that the sample will tend to confirm or disprove his involvement.

(5) An officer may give an authorisation under paragraph (3) orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(6) Where—

- (a) an authorisation has been given; and
- (b) it is proposed that a non-intimate sample shall be taken in pursuance of the authorisation,

an officer shall inform the person from whom the sample is to be taken—

- (i) of the giving of the authorisation; and
- (ii) of the grounds for giving it.

(7) The duty imposed by paragraph (6)(ii) includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(8) If a non-intimate sample is taken from a person by virtue of paragraph (3)—

- (a) the authorisation by virtue of which it was taken; and
- (b) the grounds for giving the authorisation,

shall be recorded as soon as is practicable after the sample is taken.

(9) If a non-intimate sample is taken from a person detained at a police station, the matters required to be recorded by paragraph (8) shall be recorded in his custody record.

Destruction of fingerprints and samples

64.—(1) If—

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
- (b) he is cleared of that offence,

they must be destroyed as soon as is practicable after the conclusion of the proceedings.

(2) If—

- (a) fingerprints or samples are taken from a person in connection with such an investigation; and
- (b) it is decided that he shall not be prosecuted for the offence and he has not admitted it and been dealt with by way of being cautioned by a constable,

they must be destroyed as soon as is practicable after that decision is taken.

(3) If—

- (a) fingerprints or samples are taken from a person in connection with the investigation of an offence; and
- (b) that person is not suspected of having committed the offence,

they must be destroyed as soon as they have fulfilled the purpose for which they were taken.

(4) Proceedings which are discontinued are to be treated as concluded for the purposes of this Article.

(5) If fingerprints are destroyed—

- (a) any copies of the fingerprints shall also be destroyed; and
- (b) a person authorised by the Chief Constable to control access to computer data relating to the fingerprints shall make access to the data impossible, as soon as it is practicable to do so.

(6) A person who asks to be allowed to witness the destruction of his fingerprints or copies of them shall have a right to witness it.

(7) If—

- (a) paragraph (5)(b) falls to be complied with; and
- (b) the person to whose fingerprints the data relate asks for a certificate that it has been complied with,

such a certificate shall be issued to him not later than the end of the period of 3 months beginning with the day on which he asks for it by the Chief Constable or a person authorised by him or on his behalf for the purposes of this Article.

(8) Nothing in this Article—

- (a) affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971(58); or
- (b) applies to a person arrested or detained under the terrorism provisions.

PART VII

CODES OF PRACTICE—GENERAL

Codes of practice

- 65.** The Secretary of State shall issue codes of practice in connection with—
- (a) the exercise by police officers of statutory powers—
 - (i) to search a person without first arresting him; or
 - (ii) to search a vehicle without making an arrest;
 - (b) the detention, treatment, questioning and identification of persons by police officers;
 - (c) searches of premises by police officers; and
 - (d) the seizure of property found by police officers on persons or premises.

Codes of practice—supplementary

66.—(1) When the Secretary of State proposes to issue a code of practice to which this Article applies, he shall prepare and publish a draft of that code, shall consider any representations made to him about the draft and may modify the draft accordingly.

(2) This Article applies to a code of practice under Article 60 or 65.

(3) The Secretary of State shall lay before both Houses of Parliament a draft of any code of practice prepared by him under this Article.

(4) When the Secretary of State has laid the draft of a code before Parliament, he may bring the code into operation by order, subject to Article 89.

(5) An order bringing a code of practice into operation may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice thereby brought into operation.

(6) The Secretary of State may from time to time revise the whole or any part of a code of practice to which this Article applies and issue that revised code; and the foregoing provisions of this Article shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.

(7) A police officer shall be liable to disciplinary proceedings for a failure to comply with any provision of such a code, unless such proceedings are precluded by Article 22 of the Police (Northern Ireland) Order 1987(**59**).

(8) Persons other than police officers who are charged with the duty of investigating offences or charging offenders shall in the discharge of that duty have regard to any relevant provision of such a code.

(9) A failure on the part—

- (a) of a police officer to comply with any provision of such a code; or
- (b) of any person other than a police officer who is charged with the duty of investigating offences or charging offenders to have regard to any relevant provision of such a code in the discharge of that duty,

shall not of itself render him liable to any criminal or civil proceedings.

(10) In all criminal and civil proceedings any such code shall be admissible in evidence; and if any provision of such a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(11) In this Article “criminal proceedings” includes—

- (a) proceedings in Northern Ireland before a court-martial constituted under the Army Act 1955(**60**), the Air Force Act 1955(**61**) or the Naval Discipline Act 1957(**62**) or a disciplinary court constituted under section 50 of the said Act of 1957; and
- (b) proceedings in Northern Ireland before the Courts-Martial Appeal Court.

(12) Nothing in a code of practice or in an order made under—

- (a) paragraph (4), or
- (b) paragraph (b) of Article 60,

applies to the exercise of powers conferred by or under the terrorism provisions or to a person arrested or detained under those provisions.

PART VIII

DOCUMENTARY EVIDENCE IN CRIMINAL PROCEEDINGS

Interpretation of Part VIII

67.—(1) In this Part “copy” and “statement” have the same meanings as in Part I of the Civil Evidence Act (Northern Ireland) 1971(**63**).

(2) Nothing in this Part shall prejudice any power of a court to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion.

Evidence from computer records

68.—(1) In any criminal proceedings, a statement in a document produced by a computer shall not be admissible as evidence of any fact stated therein unless it is shown—

- (a) that there are no reasonable grounds for believing that the statement is inaccurate because of improper use of the computer;
- (b) that at all material times the computer was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents; and
- (c) that any relevant conditions specified in rules under paragraph (2) are satisfied.

(2) Provision may be made by the rules mentioned in paragraph (3), requiring that in any criminal proceedings where it is desired to give a statement in evidence by virtue of this Article such information concerning the statement as may be required by those rules shall be provided in such form and at such time as may be so required.

(3) Those rules are—

- (a) rules of court;
- (b) Crown Court rules;

(60) 1971 c. 77
(61) 1987 NI 10
(62) 1955 c. 18
(63) 1955 c. 19

- (d) magistrates' courts rules.
- (4) Schedule 3 shall have effect for the purpose of supplementing this Article.

Microfilm copies

69. In any criminal proceedings the contents of a document may (whether or not the document is still in existence) be proved by the production of an enlargement of a microfilm copy of that document or of the material part of it, authenticated in such manner as the court may approve.

PART IX

EVIDENCE IN CRIMINAL PROCEEDINGS—GENERAL

Interpretation of Part IX

70.—(1) In this Part—

“confession” includes any statement wholly or partly adverse to the person who made it, whether made to a person in authority or not and whether made in words or otherwise;

“Service court” means a court-martial or a Standing Civilian Court; and

“sexual offence” has the meaning given in section 58(5) of the Children and Young Persons Act (Northern Ireland) 1968(64).

(2) In this Part references to conviction before a Service court are references—

(a) as regards a court-martial constituted under the Army Act 1955(65) or the Air Force Act 1955(66), to a finding of guilty which is, or falls to be treated as, a finding of the court duly confirmed;

(b) as regards—

(i) a court-martial; or

(ii) a disciplinary court,

constituted under the Naval Discipline Act 1957(67), to a finding of guilty which is, or falls to be treated as, the finding of the court.

(3) Nothing in this Part shall prejudice any power of a court to exclude evidence (whether by preventing questions from being put or otherwise) at its discretion.

Convictions and acquittals

Proof of convictions and acquittals

71.—(1) Where in any criminal proceedings the fact that a person has in the United Kingdom been convicted or acquitted of an offence otherwise than by a Service court is admissible in evidence, it may be proved by producing a certificate of conviction or, as the case may be, of acquittal relating to that offence, and proving that the person named in the certificate as having been convicted or acquitted of the offence is the person whose conviction or acquittal of the offence is to be proved.

(2) For the purposes of this Article a certificate of conviction or of acquittal—

(64) 1957 c. 53

(65) 1971 c. 36 (N.I.)

(66) 1968 c. 34 (N.I.)

(67) 1955 c. 18

- (a) shall, as regards a conviction or acquittal on indictment, consist of a certificate, signed by the clerk of the court where the conviction or acquittal took place, giving the substance and effect (omitting the formal parts) of the indictment and of the conviction or acquittal; and
- (b) shall, as regards a conviction or acquittal on a summary trial, consist of a copy of the conviction or of the dismissal of the information, signed by the clerk of the court where the conviction or acquittal took place or by the clerk of the court, if any, to which a memorandum of the conviction or acquittal was sent;

and a document purporting to be a duly signed certificate of conviction or acquittal under this Article shall be taken to be such a certificate unless the contrary is proved.

(3) References in this Article to the clerk of a court include references to any other person having the custody of the court record.

(4) The method of proving a conviction or acquittal authorised by this Article shall be in addition to and not to the exclusion of any other authorised manner of proving a conviction or acquittal.

Conviction as evidence of commission of offence

72.—(1) In any criminal proceedings the fact that a person other than the accused has been convicted of an offence by or before any court in the United Kingdom or by a Service court outside the United Kingdom shall be admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those proceedings, that that person committed that offence, whether or not any other evidence of his having committed that offence is given.

(2) In any criminal proceedings in which by virtue of this Article a person other than the accused is proved to have been convicted of an offence by or before any court in the United Kingdom or by a Service court outside the United Kingdom, he shall be taken to have committed that offence unless the contrary is proved.

(3) In any criminal proceedings where evidence is admissible of the fact that the accused has committed an offence, in so far as that evidence is relevant to any matter in issue in the proceedings for a reason other than a tendency to show in the accused a disposition to commit the kind of offence with which he is charged, if the accused is proved to have been convicted of the offence—

- (a) by or before any court in the United Kingdom; or
- (b) by a Service court outside the United Kingdom,

he shall be taken to have committed that offence unless the contrary is proved.

(4) Nothing in this Article shall prejudice—

- (a) the admissibility in evidence of any conviction which would be admissible apart from this Article; or
- (b) the operation of any statutory provision whereby a conviction or a finding of fact in any criminal proceedings is for the purposes of any other criminal proceedings made conclusive evidence of any fact.

Provisions supplementary to Article 72

73.—(1) Where evidence that a person has been convicted of an offence is admissible by virtue of Article 72, then without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the conviction was based—

- (a) the contents of any document which is admissible as evidence of the conviction; and
- (b) the contents of the complaint, information, indictment or charge-sheet on which the person in question was convicted,

shall be admissible in evidence for that purpose.

(2) Where in any criminal proceedings the contents of any document are admissible in evidence by virtue of paragraph (1), a copy of that document, or of the material part of it, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.

(3) Nothing in any of the following—

- (a) section 8 of the Probation Act (Northern Ireland) 1950⁽⁶⁸⁾ (under which a conviction leading to probation or discharge is to be disregarded except as mentioned in that section);
- (b) section 13 of the Powers of Criminal Courts Act 1973⁽⁶⁹⁾ (which makes provision similar to section 8 of that Act of 1950); and
- (c) section 392 of the Criminal Procedure (Scotland) Act 1975⁽⁷⁰⁾ (which makes similar provision in respect of convictions on indictment in Scotland);

shall affect the operation of Article 72; and for the purposes of that Article any order made by a court of summary jurisdiction in Scotland under section 182 or 183 of the said Act of 1975 shall be treated as a conviction.

(4) Nothing in Article 72 shall be construed as rendering admissible in any criminal proceedings evidence of any conviction other than a subsisting one.

Confessions

Confessions

74.—(1) In any criminal proceedings a confession made by an accused person may be given in evidence against him in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this Article.

(2) If, in any criminal proceedings where the prosecution proposes to give in evidence a confession made by an accused person, it is represented to the court that the confession was or may have been obtained—

- (a) by oppression of the person who made it; or
- (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in consequence thereof,

the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained as aforesaid.

(3) In any criminal proceedings where the prosecution proposes to give in evidence a confession made by an accused person, the court may of its own motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in paragraph (2).

(4) The fact that a confession is wholly or partly excluded in pursuance of this Article shall not affect the admissibility in evidence—

- (a) of any facts discovered as a result of the confession; or
- (b) where the confession is relevant as showing that the accused speaks, writes or expresses himself in a particular way, of so much of the confession as is necessary to show that he does so.

⁽⁶⁸⁾ 1955 c. 19

⁽⁶⁹⁾ 1957 c. 53

⁽⁷⁰⁾ 1950 c. 7 (N.I.)

(5) Evidence that a fact to which this paragraph applies was discovered as a result of a statement made by an accused person shall not be admissible unless evidence of how it was discovered is given by him or on his behalf.

(6) Paragraph (5) applies—

- (a) to any fact discovered as a result of a confession which is wholly excluded in pursuance of this Article; and
- (b) to any fact discovered as a result of a confession which is partly so excluded, if the fact is discovered as a result of the excluded part of the confession.

(7) Nothing in Part VIII shall prejudice the admissibility of a confession made by an accused person.

(8) In this Article “oppression” includes torture, inhuman or degrading treatment, and the use or threat of violence (whether or not amounting to torture).

(9) Nothing in this Article shall have effect in relation to criminal proceedings to which section 8 of the Northern Ireland (Emergency Provisions) Act 1978(71) applies.

Confessions by mentally handicapped persons

75.—(1) Without prejudice to the general duty of the court at a trial on indictment to direct the jury on any matter on which it appears to the court appropriate to do so, where at such a trial—

- (a) the case against the accused depends wholly or substantially on a confession by him; and
- (b) the court is satisfied—
 - (i) that he is mentally handicapped; and
 - (ii) that the confession was not made in the presence of an independent person,

the court shall warn the jury that there is special need for caution before convicting the accused in reliance on the confession, and shall explain that the need arises because of the circumstances mentioned in sub-paragraphs (a) and (b).

(2) In any case where a person is being tried summarily for an offence it appears to the court that a warning under paragraph (1) would be required if the trial were on indictment, the court shall treat the case as one in which there is a special need for caution before convicting the accused on his confession.

(3) In this Article—

“independent person” does not include a constable or a person employed for, or engaged on, police purposes;

“mentally handicapped” in relation to a person means that he is in a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning; and

“police purposes” includes the purposes of police cadets undergoing training with a view to becoming members of the Royal Ulster Constabulary and of civilians employed for the purposes of that Constabulary or of any such cadets.

Miscellaneous

Exclusion of unfair evidence

76.—(1) In any criminal proceedings the court may refuse to allow evidence on which the prosecution proposes to rely to be given if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

(2) Nothing in this Article shall—

- (a) prejudice any rule of law requiring a court to exclude evidence; or
- (b) affect, in proceedings such as are mentioned in subsection (1) of section 8 of the Northern Ireland (Emergency Provisions) Act 1978(72), the admissibility under that section of a statement made by the accused.

Time for taking accused's evidence

77. If at the trial of any person for an offence—

- (a) the defence intends to call two or more witnesses to the facts of the case; and
- (b) those witnesses include the accused,

the accused shall be called before the other witness or witnesses unless the court in its discretion otherwise directs.

Abolition of right of accused to make unsworn statement

78.—(1) Subject to paragraphs (2) and (3), in any criminal proceedings the accused shall not be entitled to make a statement without being sworn, and accordingly, if he gives evidence, he shall do so on oath and be liable to cross-examination; but this Article shall not affect the right of the accused, if not represented by counsel or a solicitor, to address the court or jury otherwise than on oath on any matter on which, if he were so represented, counsel or a solicitor could address the court or jury on his behalf.

(2) Nothing in paragraph (1) shall prevent the accused making a statement without being sworn—

- (a) if it is one which he is required by law to make personally; or
- (b) if he makes it by way of mitigation before the court passes sentence upon him.

(3) Nothing in this Article shall apply—

- (a) to a trial which began before the day of the coming into operation of this Article; or
- (b) to proceedings before a magistrates' court, where—
 - (i) the court, in conducting a preliminary investigation, began to hear the evidence for the prosecution (other than a deposition relating to the arrest or remand of the accused) before that day, or
 - (ii) the court began to conduct a preliminary inquiry before that day.

Competence and compellability of accused's spouse

79.—(1) In any criminal proceedings the wife or husband of the accused shall be competent to give evidence—

- (a) subject to paragraph (4), for the prosecution; and
 - (b) on behalf of the accused or any person jointly charged with the accused.
- (2) In any criminal proceedings the wife or husband of the accused shall, subject to paragraph (4), be compellable to give evidence on behalf of the accused.
- (3) In any criminal proceedings the wife or husband of the accused shall, subject to paragraph (4), be compellable to give evidence for the prosecution or on behalf of any person jointly charged with the accused if and only if—
- (a) the offence charged involves an assault on, or injury or a threat of injury to, the wife or husband of the accused or a person who was at the material time under the age of seventeen; or
 - (b) the offence charged is a sexual offence alleged to have been committed in respect of a person who was at the material time under that age; or
 - (c) the offence charged consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within sub-paragraph (a) or (b).
- (4) Where a husband and wife are jointly charged with an offence neither spouse shall at the trial be competent or compellable by virtue of paragraph (1)(a), (2) or (3) to give evidence in respect of that offence unless that spouse is not, or is no longer, liable to be convicted of that offence at the trial as a result of pleading guilty or for any other reason.
- (5) In any criminal proceedings a person who has been but is no longer married to the accused shall be competent and compellable to give evidence as if that person and the accused had never been married.
- (6) Where in any criminal proceedings the age of any person at any time is material for the purposes of paragraph (3), his age at the material time shall for the purposes of that provision be deemed to be or to have been that which appears to the court to be or to have been his age at that time.
- (7) The failure of the wife or husband of the accused to give evidence shall not be made the subject of any comment by the prosecution.
- (8) Proviso (d) in section 1 of the Criminal Evidence Act (Northern Ireland) 1923(73) (communications between husband and wife) and section 7(2) of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1951(74) so far as it is unrepealed (evidence as to marital intercourse) shall cease to have effect.

Advance notice of expert evidence in Crown Court

- 80.**—(1) Crown Court rules may make provision for—
- (a) requiring any party to criminal proceedings before the court to disclose to the other party or parties any expert evidence which he proposes to adduce in the proceedings; and
 - (b) prohibiting a party who fails to comply in respect of any evidence with any requirement imposed by virtue of sub-paragraph (a) from adducing that evidence without the leave of the court.
- (2) Crown Court rules made by virtue of this Article may specify the kinds of expert evidence to which they apply and may exempt facts or matters of any description specified in the rules.

(73) 1978 c. 5

(74) 1978 c. 5

Evidence through television links

81.—(1) A person other than the accused may give evidence through a live television link at a preliminary investigation into an indictable offence, at a trial on indictment or on an appeal to the Court of Appeal or the hearing of a reference under section 14 of the Criminal Appeal (Northern Ireland) Act 1980**(75)** if—

- (a) the witness is in Northern Ireland; and
- (b) the witness—
 - (i) will not give evidence otherwise through fear, or
 - (ii) is under the age of 14 and the offence charged is one to which paragraph (3) applies.

(2) Evidence may not be given through a link by virtue of this Article without leave of the court.

(3) This paragraph applies—

- (a) to an offence which involves an assault on, or injury or threat of injury to, a person;
- (b) to an offence under section 20 of the Children and Young Persons Act (Northern Ireland) 1968**(76)**;
- (c) to a sexual offence which is tried on indictment; and
- (d) to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within subparagraph (a), (b) or (c).

(4) Subject to Article 89, the Secretary of State may by order—

- (a) direct that this Article shall apply—
 - (i) to a witness falling within head (i) or (ii) of paragraph (1)(b) who is in Great Britain, or
 - (ii) to any witness who is outside the United Kingdom; and
- (b) provide that a statement made on oath by such a witness and given in evidence through a link by virtue of this Article shall be treated for the purposes of Article 3 of the Perjury (Northern Ireland) Order 1979**(77)** as having been made in the proceedings in which it is given in evidence.

(5) Without prejudice to the generality of any statutory provision conferring power to make rules to which this paragraph applies, such rules may make such provision as appears to the authority making them to be necessary or expedient for the purposes of this Article.

(6) The rules to which paragraph (5) applies are—

- (a) magistrates' courts rules;
- (b) Crown Court rules; and
- (c) rules of court.

(7) Where, at a preliminary investigation into an indictable offence, a court grants leave for evidence to be given through a link by virtue of this Article—

- (a) that court may, notwithstanding anything in the Magistrates' Courts (Northern Ireland) Order 1981**(78)** adjourn the investigation and order that it be held at such time and at such designated place as may be specified in the order; and

(75) 1923 c. 9 (N.I.)

(76) 1951 c. 7 (N.I.)

(77) 1980 c. 47

(78) 1968 c. 34 (N.I.)

(b) a court sitting at a designated place shall, by virtue of this paragraph, have jurisdiction for the purposes of Article 16(1)(d) of that Order to deal with an offence in relation to which an investigation is so adjourned.

(8) In paragraph (7) “designated place” means any place designated under this paragraph by the Lord Chancellor as a place having facilities to receive evidence given through a link by virtue of this Article.

PART X

POLICE—GENERAL

Arrangements for obtaining the views of the community on policing

82.—(1) Arrangements shall be made for obtaining the views of people about matters concerning policing and for obtaining their co-operation with the police in preventing crime.

(2) Arrangements shall be made by the Police Authority after consulting the Chief Constable as to the arrangements that would be appropriate.

(3) The Police Authority shall review the arrangements made under this Article from time to time.

(4) If it appears to the Secretary of State that arrangements are not adequate for the purposes set out in paragraph (1), he may require the Police Authority to submit a report to him concerning the arrangements.

(5) After considering the report the Secretary of State may require the Police Authority to review the arrangements and submit a further report to him concerning them.

(6) The Police Authority shall be under the same duties to consult when reviewing arrangements as when making them.

Local inquiries

83.—(1) The Secretary of State may cause a local inquiry to be held by a person appointed by him into any matter connected with policing.

(2) Any inquiry under this Article shall be held in public or in private as the Secretary of State may direct.

(3) Section 23 of the Interpretation Act (Northern Ireland) 1954(79) (inquiries and investigations) shall apply as if the Secretary of State were the head of a Northern Ireland department.

(4) Where the report of the person holding an inquiry under this Article is not published, a summary of his findings and conclusions shall be made known by the Secretary of State so far as appears to him consistent with the public interest.

Police officers performing duties of higher rank

84.—(1) For the purpose of any provision of this Order or any other statutory provision under which a power in respect of the investigation of offences or the treatment of persons in police custody is exercisable only by or with the authority of a police officer of at least the rank of superintendent, an officer of the rank of chief inspector shall be treated as holding the rank of superintendent if he has been authorised by an officer of at least the rank of chief superintendent to exercise the power or, as the case may be, to give his authority for its exercise.

(2) For the purpose of any provision of this Order or any other statutory provision under which such a power is exercisable only by or with the authority of an officer of at least the rank of inspector, an officer of the rank of sergeant shall be treated as holding the rank of inspector if he has been authorised by an officer of at least the rank of chief superintendent to exercise the power or, as the case may be, to give his authority for its exercise.

PART XI

MISCELLANEOUS AND SUPPLEMENTARY

Application of Order to Customs and Excise

85.—(1) Subject to Article 89, the Treasury may by order direct—

- (a) that any provision of this Order which relates to investigations of offences conducted by police officers or to persons detained by the police shall apply, subject to such modifications as the order may specify, to investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, as defined in section 1 of the Customs and Excise Management Act 1979⁽⁸⁰⁾, or to persons detained by officers of Customs and Excise; and
- (b) that, in relation to investigations of offences conducted by officers of Customs and Excise—
 - (i) this Order shall have effect as if the following Article were inserted after Article 16—

“Exception for Customs and Excise

16A. Material in the possession of a person who acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office and which relates to an assigned matter, as defined in section 1 of the Customs and Excise Management Act 1979, is neither excluded material nor special procedure material for the purposes of any statutory provision such as is mentioned in Article 11(2).”; and

- (ii) Article 56 shall have effect as if it related only to things such as are mentioned in paragraph (1)(a) of that Article.

(2) Nothing in any order under paragraph (1) shall be taken to limit any powers exercisable under section 164 of the Customs and Excise Management Act 1979⁽⁸¹⁾.

(3) In this Article “officers of Customs and Excise” means officers commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979.

Service of summons, etc. by post

86. The statutory provisions mentioned in Schedule 4 shall have effect subject to the amendments specified there, being amendments to facilitate the service of summons and certain other documents by post.

⁽⁸⁰⁾ 1981 NI 26

⁽⁸¹⁾ 1954 c. 33 (N.I.)

Meaning of “serious arrestable offence”

87.—(1) This Article has effect for determining whether an offence is a serious arrestable offence for the purposes of this Order.

(2) The following arrestable offences are always serious—

- (a) an offence (whether at common law or under any statutory provision) specified in Part I of Schedule 5; and
- (b) an offence under a statutory provision specified in Part II of that Schedule.

(3) Subject to paragraphs (4) and (5), any other arrestable offence is serious only if its commission—

- (a) has led to any of the consequences specified in paragraph (6); or
- (b) is intended or is likely to lead to any of those consequences.

(4) An arrestable offence which consists of making a threat is serious if carrying out the threat would be likely to lead to any of the consequences specified in paragraph (6).

(5) A person arrested under section 14(1)(b) of the Prevention of Terrorism (Temporary Provisions) Act 1989(82) is to be treated for the purposes of Articles 62 and 63 as having been arrested on suspicion of involvement in a serious arrestable offence, and any reference in those Articles to such an offence includes a reference to being or having been concerned in the commission, preparation or instigation of acts of terrorism to which Part IV of that Act applies.

(6) The consequences mentioned in paragraphs (3) and (4) are—

- (a) serious harm to the safety of the United Kingdom, or any part of it, or to public order;
- (b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;
- (c) the death of any person;
- (d) serious injury to any person;
- (e) substantial financial gain to any person; and
- (f) serious financial loss to any person.

(7) Loss is serious for the purposes of this Article if, having regard to all the circumstances, it is serious for the person who suffers it.

(8) In this Article “injury” includes any disease and any impairment of a person’s physical or mental condition.

Power of constable to use reasonable force

88. Where any provision of this Order—

- (a) confers a power on a constable; and
- (b) does not provide that the power may only be exercised with the consent of some person, other than a police officer,

the constable may use reasonable force, if necessary, in the exercise of the power.

Orders and regulations

89. Orders made under Articles 60, 66, 81 and 85(1) and regulations made under Article 29(4) shall be subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946(**83**) shall apply accordingly.

Amendments and repeals

90.—(1) The statutory provisions mentioned in Schedule 6 shall have effect with the amendments there specified.

(2) The statutory provisions mentioned in Schedule 7 (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

(3) The repeals in Part II of Schedule 7 have effect only in relation to criminal proceedings.

G. I. de Deney
Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 11.

SPECIAL PROCEDURE

Making of orders by county court judge

1. If on an application made by a constable a county court judge is satisfied that one or other of the sets of access conditions is fulfilled, he may make an order under paragraph 4.
2. The first set of access conditions is fulfilled if—
 - (a) there are reasonable grounds for believing—
 - (i) that a serious arrestable offence has been committed;
 - (ii) that there is material which consists of special procedure material or includes special procedure material and does not also include excluded material on premises specified in the application;
 - (iii) that the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made; and
 - (iv) that the material is likely to be relevant evidence;
 - (b) other methods of obtaining the material—
 - (i) have been tried without success; or
 - (ii) have not been tried because it appeared that they were bound to fail; and
 - (c) it is in the public interest, having regard—
 - (i) to the benefit likely to accrue to the investigation if the material is obtained; and
 - (ii) to the circumstances under which the person in possession of the material holds it, that the material should be produced or that access to it should be given.
3. The second set of access conditions is fulfilled if—
 - (a) there are reasonable grounds for believing that there is material which consists of or includes excluded material or special procedure material on premises specified in the application;
 - (b) but for Article 11(2) a search of the premises for that material could have been authorised by the issue of a warrant to a constable under a statutory provision other than this Schedule; and
 - (c) the issue of such a warrant would have been appropriate.
4. An order under this paragraph is an order that the person who appears to the county court judge to be in possession of the material to which the application relates shall—
 - (a) produce it to a constable for him to take away; or
 - (b) give a constable access to it,

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not later than the end of the period of seven days from the date of the order or the end of such longer period as the order may specify.

5. Where the material consists of information contained in a computer—
- (a) an order under paragraph 4(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
 - (b) an order under paragraph 4(b) shall have effect as an order to give a constable access to the material in a form in which it is visible and legible.

6. For the purposes of Articles 23 and 24 material produced in pursuance of an order under paragraph 4(a) shall be treated as if it were material seized by a constable.

Notices of applications for orders

7. An application for an order under paragraph 4 shall be made inter partes.

8. Where notice of an application for an order under paragraph 4 has been served on a person, he shall not conceal, destroy, alter or dispose of the material to which the application relates except—

- (a) with the leave of a judge; or
- (b) with the written permission of a constable,

until—

- (i) the application is dismissed or abandoned; or
- (ii) he has complied with an order under paragraph 4 made on the application.

Issue of warrants by county court judge

9. If on an application made by a constable a county court judge—

- (a) is satisfied—
 - (i) that either set of access conditions is fulfilled; and
 - (ii) that any of the further conditions set out in paragraph 11 is also fulfilled; or
- (b) is satisfied—
 - (i) that the second set of access conditions is fulfilled; and
 - (ii) that an order under paragraph 4 relating to the material has not been complied with,

he may issue a warrant authorising a constable to enter and search the premises.

10. A constable may seize and retain anything for which a search has been authorised under paragraph 9.

11. The further conditions mentioned in paragraph 9(a)(ii) are—

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;
- (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;
- (c) that the material contains information which—
 - (i) is subject to a restriction or obligation such as is mentioned in Article 13(2)(b); and
 - (ii) is likely to be disclosed in breach of it if a warrant is not issued;

(d) that service of notice of an application for an order under paragraph 4 may seriously prejudice the investigation for the purpose of which the application is sought, or other investigations.

12.—(1) If a person fails to comply with an order under paragraph 4, a county court judge may deal with him as if he had committed a contempt of the Crown Court.

(2) Any statutory provision relating to contempt of the Crown Court shall have effect in relation to such a failure as if it were such a contempt.

Costs

13. The costs of any application under this Schedule and of anything done or to be done in pursuance of an order made under it shall be in the discretion of the judge.

SCHEDULE 2

Article 28.

PRESERVED POWERS OF ARREST

1845 c. cxlii	Section CCXXX of the Belfast Improvement Act 1845 (subject to Note 1)
1847 c. 89	Section 28 of the Town Police Clauses Act 1847 (subject to Notes 1 and 2)
1854 c. 103	Section 72 of the Towns Improvement (Ireland) Act 1854 (subject to Notes 1 and 2)
1892 c. 43	Section 17(2) of the Military Lands Act 1892
1926 c. 8 (N.I.)	Any power of arrest contained in regulations made under section 2 of the Emergency Powers Act (Northern Ireland) 1926
1952 c. 67	Section 13 of the Visiting Forces Act 1952
1953 c. 18 (N.I.)	Section 38(1) of the Prison Act (Northern Ireland) 1953
1955 c. 18	Sections 186 and 190B of the Army Act 1955
1955 c. 19	Sections 186 and 190B of the Air Force Act 1955
1957 c. 53	Sections 104 and 105 of the Naval Discipline Act 1957
1962 c. 14 (N.I.)	Rule 33 in Schedule 5 to the Electoral Law Act (Northern Ireland) 1962
1968 c. 34 (N.I.)	Sections 73(6), 99 and 140 of the Children and Young Persons Act (Northern Ireland) 1968
1969 c. 54	Section 32 of the Children and Young Persons Act 1969

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1971 c. 77	Section 24(2) of the Immigration Act 1971 and paragraphs 17, 24 and 33 of Schedule 2 and paragraph 7 of Schedule 3 to that Act
1978 c. 5	Section 13 of the Northern Ireland (Emergency Provisions) Act 1978
1980 c. 5	Section 16 of the Child Care Act 1980
1980 c. 9	Schedule 5 to the Reserve Forces Act 1980
1980 NI 5	Article 19(1) of the Domestic Proceedings (Northern Ireland) Order 1980
1981 NI 1	Articles 146(3), 180(5) and 181 of the Road Traffic (Northern Ireland) Order 1981
1981 NI 22	Article 42(5) and (8) of the Diseases of Animals (Northern Ireland) Order 1981
S.I. 1982/1135	Article 7A(6) of, and Rule 35 in Schedule 2 to, the Northern Ireland Assembly Elections Order 1982
1983 c. 2S.I. 1986/2250	Rule 36 in Schedule 1 to the Representation of the People Act 1983 (including that rule as applied by regulation 5(1) of, and Schedule 1 to, the European Parliamentary Elections (Northern Ireland) Regulations 1986)
1984 c. 47	Section 5(5) of the Repatriation of Prisoners Act 1984
S.I. 1985/454	Article 15(6) of the Local Elections (Northern Ireland) Order 1985
1985 c. 2	Section 3(6) of the Elections (Northern Ireland) Act 1985 (including that section as applied by regulation 5(1) of, and Schedule 1 to, the European Parliamentary Elections (Northern Ireland) Regulations 1986)
1986 NI 4	Articles 29, 42(10), 43(5), 45(6), 130(1) and 132 of the Mental Health (Northern Ireland) Order 1986
1987 NI 7	Article 24(1) and (2) of the Public Order (Northern Ireland) Order 1987
1989 c. 4	Section 14 of, and paragraph 7(2) of Schedule 2 and paragraph 6 of Schedule 5 to, the Prevention of Terrorism (Temporary Provisions) Act 1989
Note 1	The power of arrest under the section is preserved only in relation to the offence of loitering and importuning by a common prostitute or nightwalker.

Note 2

The reference to the section includes a reference to it as incorporated with any other statutory provision.

SCHEDULE 3

Article 68(4).

PROVISIONS SUPPLEMENTARY TO ARTICLE 68(4)

1. In any criminal proceedings where it is desired to give a statement in evidence in accordance with Article 68, a certificate—

- (a) identifying the document containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;
- (c) dealing with any of the matters mentioned in paragraph (1) of Article 68; and
- (d) purporting to be signed by a person occupying a responsible position in relation to the operation of the computer,

shall be evidence of anything stated in it; and for the purposes of this paragraph it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

2. Notwithstanding paragraph 1, a court may require oral evidence to be given of anything of which evidence could be given by a certificate under that paragraph.

3. Any person who in a certificate tendered under paragraph 1 in a magistrates' court, a county court, the Crown Court or the Court of Appeal makes a statement which he knows to be false or does not believe to be true shall be guilty of an offence and liable—

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

4. In estimating the weight, if any, to be attached to a statement regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement and, in particular—

- (a) to the question whether or not the information which the information contained in the statement reproduces or is derived from was supplied to the relevant computer, or recorded for the purpose of being supplied to it, contemporaneously with the occurrence or existence of the facts dealt with in that information; and
- (b) to the question whether or not any person concerned with the supply of information to that computer, or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent the facts.

5. For the purposes of paragraph 4 information shall be taken to be supplied to a computer whether it is supplied directly or (with or without human intervention) by means of any appropriate equipment.

6. For the purpose of deciding whether or not a statement is admissible in evidence the court may draw any reasonable inference—

- (a) from the circumstances in which the statement was made or otherwise came into being; or

- (b) from any other circumstances, including the form and contents of the document in which the statement is contained.

7. Provision may be made by the rules mentioned in paragraph (3) of Article 68 supplementing the provisions of that Article or this Schedule.

SCHEDULE 4

Article 86.

AMENDMENTS RELATING TO THE SERVICE OF SUMMONS, ETC. BY POST

The Criminal Justice (Miscellaneous Provisions) Act (Northern Ireland) 1968 (c. 28(N.I.))

1.—(1) In section 1(8), at the beginning insert the words “Subject to section 1A and”.

(2) After section 1 insert the following section—

“Service by ordinary post.

1A.—(1) Without prejudice to subsection (8) of section 1, a document required by that section to be served on any person may, in relation to criminal proceedings in a magistrates' court, be served by ordinary post in an envelope in the manner described in paragraph (c) or (d) of that subsection.

(2) A written statement contained in a document served in accordance with subsection (1) shall not be admissible in evidence under section 1 unless the person upon whom the document is served provides an acknowledgement in such form and manner as may be prescribed by magistrates' courts rules.

(3) Unless the contrary is proved—

- (a) such an acknowledgement shall be taken as proof of service; and
- (b) the document shall be deemed to have been served at the time at which the envelope containing it would have been delivered in the ordinary course of post.”.

The Magistrates' Courts (Northern Ireland) Order 1981 (NI 26)

2. After Article 25 insert the following Article—

“Proceedings invalid where accused did not know of them

25A.—(1) Where a summons has been issued under Article 20 and a magistrates' court has begun to hear the complaint to which the summons relates, then, if—

- (a) the accused, at any time during or after the trial, makes a statutory declaration that he did not know of the summons or the proceedings until a date specified in the declaration, being a date after the court has begun to hear the complaint; and
- (b) within 21 days of that date the declaration is served on the clerk of petty sessions,

without prejudice to the validity of the complaint, the summons and all subsequent proceedings shall be void.

(2) For the purposes of paragraph (1) a statutory declaration shall be deemed to be duly served on the clerk of petty sessions if it is delivered to him, or left at his office, or is sent in a registered letter or by the recorded delivery service addressed to him at his office.

(3) If on the application of the accused it appears to a court of summary jurisdiction that it was not reasonable to expect the accused to serve such a statutory declaration as is mentioned in paragraph (1) within the period allowed by that paragraph, the court may accept service of such a declaration by the accused after that period has expired; and a statutory declaration accepted under this paragraph shall be deemed to have been served as required by that paragraph.

(4) Where any proceedings have become void by virtue of paragraph (1), the complaint shall not be heard again by the same resident magistrate or justice of the peace or, where the complaint was heard by a juvenile court, any member of the court which heard the complaint.”.

3. In Article 126—

(a) in paragraph (1) after the word “affidavit” add “or by such other document as may be prescribed”; and

(b) after paragraph (2) add the following—

“(3) Magistrates' courts rules may provide that any document purporting to be given as a document prescribed under paragraph (1) shall be received in evidence and shall be deemed to be duly given unless the contrary is shown.

(4) Without prejudice to Article 10 of the Perjury (Northern Ireland) Order 1979, if, in a document purporting to be given as a document prescribed under paragraph (1), a person—

(a) makes a statement that he knows to be false in a material particular, or

(b) recklessly makes any statement that is false in a material particular,

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 3 on the standard scale, or both.”.

SCHEDULE 5

Article 87.

SERIOUS ARRESTABLE OFFENCES

PART I

OFFENCES MENTIONED IN ARTICLE 87(2)(a)

1. Treason.
2. Murder.
3. Manslaughter.
4. Rape.
5. Kidnapping.
6. Incest with a girl under the age of 14.
7. Buggery with—
 - (a) a boy under the age of 16; or
 - (b) a person who has not consented.
8. Indecent assault which constitutes an act of gross indecency.

Status: This is the original version (as it was originally made).

PART II

OFFENCES MENTIONED IN ARTICLE 87(2)(b)

Explosive Substances Act 1883 (c. 3)

1. Section 2 (causing explosion likely to endanger life or property).

Criminal Law Amendment Act 1885 (c. 69)

2. Section 4 (unlawful carnal knowledge of a girl under the age of 14).

Road Traffic (Northern Ireland) Order 1981 (1981 NI 1)

3. Article 139(1) (causing death or grievous bodily injury by reckless driving).

Firearms (Northern Ireland) Order 1981 (1981 NI 2)

4. Article 17 (possession of firearm with intent to injure).
5. Article 18(1) (use of firearm or imitation firearm to resist arrest).
6. Article 19 (carrying firearm or imitation firearm with criminal intent).

Taking of Hostages Act 1982 (c. 28)

7. Section 1 (hostage-taking).

Aviation Security Act 1982 (c. 36)

8. Section 1 (hijacking).

Criminal Justice Act 1988 (c. 33)

9. Section 134 (torture).

SCHEDULE 6

Article 90(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Railway Regulation Act 1840 (c. 97)

1. In section 16 (persons obstructing officers of railway company or trespassing upon railway) for the words from “and” (third time) to “justice” (third time) substitute “be guilty of an offence and liable on summary conviction, at the discretion of the court, to”.

The Summary Jurisdiction (Ireland) Act 1851 (c. 92)

2. In section 14, in paragraph 2 for the words from the beginning to “any such person” substitute “If any offender”.

The Game Preservation Act (Northern Ireland) 1928 (c. 25 (N.I.))

3. In section 2(3), at the end add “or for the purpose of arresting a person under Article 27 of the Police and Criminal Evidence (Northern Ireland) Order 1989, for an offence under this Act”.

The Army Act 1955 (c. 18)

The Air Force Act 1955 (c. 19)

4. For section 195(3) of each Act substitute—

“(3) A constable may seize any property which he has reasonable grounds for suspecting of having been the subject of an offence against this section.”.

The Criminal Law Act (Northern Ireland) 1967 (c. 18 (N.I.))

5. In section 4, after subsection (1) insert the following subsection—

“(1A) In this section and section 5 “arrestable offence” has the meaning assigned to it by Article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989.”.

The Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))

6.—(1) In section 27(2), for the words from “apprehend” to “young person” substitute “detain the child or young person and take him”.

(2) In section 50(1), for the words from the beginning to “constabulary” substitute “Where a person apparently under the age of 14 is arrested without warrant for an offence other than homicide and cannot forthwith be brought before a magistrates' court, the member of the Royal Ulster Constabulary performing the functions of custody officer (within the meaning of Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989) at the police”, and omit paragraph (a).

(3) In section 50(2), for the word “seventeen” substitute “14”.

(4) In section 50(3)—

(a) for the words from the beginning to “offence” substitute “Where a person apparently under the age of 14 is arrested without warrant for an offence other than homicide”, and

(b) for the words from “within” (first time) to “1981” substitute “as soon as is practicable and in any case within a period of 36 hours from the time of his arrest”.

(5) After subsection (3) of section 50 add the following subsection—

“(3A) A child or young person arrested in pursuance of a warrant shall not be released unless he or his parent or guardian (with or without sureties) enters into a recognizance for such amount as the officer at the police station where he is detained considers will secure his attendance at the hearing of the charge; and the recognizance entered into in pursuance of this section may, if the officer thinks fit, be conditioned for the attendance of the parent or guardian at the hearing in addition to the child or young person.”.

The Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))

7. In paragraph 2 of Schedule 1, for the words from “may be” to “he” (second time) substitute “if he fails to satisfy a court of summary jurisdiction that he came lawfully by such carcase, head, skin, part or fleece”.

Status: This is the original version (as it was originally made).

The Immigration Act 1971 (c. 77)

8. In section 25(3) for the words “A constable or” substitute “An”.

The Customs and Excise Management Act 1979 (c. 2)

9. In section 138(4), after paragraph (b) add the following—

“or

- (c) by virtue of Article 26 of the Police and Criminal Evidence(Northern Ireland) Order 1989 in its application to such offences.”

The Domestic Proceedings (Northern Ireland) Order 1980 (NI 5)

10. In Article 19—

- (a) after paragraph (1) insert the following paragraph—

“(1A) A person arrested under paragraph (1) may be released—

(a) without bail, or

(b) on bail granted in accordance with Article 48 of the Police and Criminal Evidence (Northern Ireland) Order 1989.”;

- (b) in paragraph (2) for the words from “released” to “1981” substitute “so released”; and

- (c) paragraph (7) shall be omitted.

The Diseases of Animals (Northern Ireland) Order 1981 (NI 22)

11. In Article 42(4), for the words from “whether” to “or not” substitute “whether stopping or detaining a person as mentioned in paragraph (2) or arresting under Article 27 of the Police and Criminal Evidence (Northern Ireland) Order 1989 a person stopped or detained under that paragraph, or not”.

The Food and Environment Protection Act 1985 (c. 48)

12. In paragraph 7 of Schedule 2, in sub-paragraph (4) after the words “execution of warrants)” insert “and, in relation to Northern Ireland, Articles 17 and 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (which make provision corresponding to those sections)”.

The Wildlife (Northern Ireland) Order 1985 (NI 2)

13. In Article 25(2) (enforcement powers), after the words “paragraph (1)” insert “or for the purpose of arresting a person under Article 27 of the Police and Criminal Evidence (Northern Ireland) Order 1989, for an offence under Part II or Part III”.

The Betting, Gaming, Lotteries and Amusements(Northern Ireland) Order 1985 (NI 11)

14. In Article 5(2), for the words from the beginning to “Article and” substitute—

“Where a person is found committing an offence under this Article, any constable”.

The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (NI 16)

15. In Article 8(6) for the words from “by section 1” to “1972” substitute—

“(a) by section 1 of the Evidence of Alibi Act (Northern Ireland) 1972; or

- (b) by Article 80 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (expert evidence).”

The Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (NI 17)

16.—(1) In Articles 3(1) and 4(1), in each place after sub-paragraph (b) insert the following—

“and

(c) to Article 68 of the Police and Criminal Evidence (Northern Ireland) Order 1989.”

(2) In Articles 3(4) and 4(3), in each place for the words from “otherwise” onwards substitute the words “be admissible under Article 74 of the Police and Criminal Evidence (Northern Ireland) Order 1989”.

The Criminal Evidence (Northern Ireland) Order 1988 (NI 20)

17. For paragraph (10) of Article 4 substitute the following—

“(10) In section 1 of the Criminal Evidence Act (Northern Ireland) 1923, in provisos (e), (f) and (g) references to that Act shall be construed as including references to this Order.”

The Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4)

18. In section 15(7), for paragraph (b) substitute—

“(b) Article 47 of the Police and Criminal Evidence (Northern Ireland) Order 1989;”

The Official Secrets Act 1989 (c. 6)

19. In section 11—

(a) omit subsection (2); and

(b) after subsection (3) insert the following—

“(3A) In the application of subsection (3) above to Northern Ireland—

(a) the reference to the Police and Criminal Evidence Act 1984 shall be construed as a reference to the Police and Criminal Evidence (Northern Ireland) Order 1989;

(b) the reference to section 9(2) of that Act shall be construed as a reference to Article 11(2) of that Order; and

(c) the reference to paragraph 3(b) of Schedule 1 to that Act shall be construed as a reference to paragraph 3(b) of Schedule 1 to that Order.”

Status: This is the original version (as it was originally made).

SCHEDULE 7

Article 90(2) and (3).

REPEALS

PART I

PROVISIONS REPEALED IN CONSEQUENCE OF PARTS II TO VI

Chapter or Number	Short Title	Extent of repeal
1819 c. 1.	The Unlawful Drilling Act 1819.	In section 2, the words from “and to arrest” onwards.
1842 c. 55.	The Railway Regulation Act 1842.	In section 17, the words “or for any special constable duly appointed,”.
1845 c. 20.	The Railways Clauses Consolidation Act 1845.	In section 104, the words “and all constables, gaolers, and peace officers,”.
1860 c. 32.	The Ecclesiastical Courts Jurisdiction Act 1860.	In section 3, the words “constable or”.
1861 c. 100.	The Offences against the Person Act 1861.	In section 65, the words “in the daytime”.
1871 c. 96.	The Pedlars Act 1871.	Sections 18 and 19.
1875 c. 17.	The Explosives Act 1875.	In section 78, the words “by a constable, or”.
1889 c. 18.	The Indecent Advertisements Act 1889.	Section 6.
1889 c. 57.	The Regulation of Railways Act 1889.	In section 5(2), the words “or any constable”.
1908 c. 24.	The Summary Jurisdiction (Ireland) Act 1908.	Section 8.
1911 c. 28.	The Official Secrets Act 1911.	In section 9(1), the words “named therein”.
1912 c. 20.	The Criminal Law Amendment Act 1912.	Section 1.
1928 c. 25 (N.I.).	The Game Preservation Act (Northern Ireland) 1928.	In section 2(2), the second paragraph.
1953 c. 14 (N.I.).	The Criminal Justice Act (Northern Ireland) 1953.	Section 25.
1957 c. 53.	The Naval Discipline Act 1957.	In section 106(1), the words from “may” in the first place where it occurs to “and”.
1967 c. 18 (N.I.).	The Criminal Law Act (Northern Ireland) 1967.	Section 2.

Chapter or Number	Short Title	Extent of repeal
1968 c. 34 (N.I.).	The Children and Young Persons Act (Northern Ireland) 1968.	Sections 31 and 50(1)(a).
1969 c. 16 (N.I.).	The Theft Act (Northern Ireland) 1969.	Section 12(6). In section 25, subsection (2) and in subsection (5) the words from “and, in subsection (2)” onwards.
1971 c. 13 (N.I.).	The Licensing Act (Northern Ireland) 1971.	Section 50(3). In section 67 — (a) in subsection (3), the words “at any time within 14 days from the time of the issue of the warrant”; (b) in subsection (4)(b), the words “arrest and”; (c) subsection (5). Section 69(3).
1971 c. 38.	The Misuse of Drugs Act 1971.	Section 24.
1971 c. 77.	The Immigration Act 1971.	In Schedule 2, in paragraph 17(2), the words from “acting” to “the warrant” (first time).
1974 c. 6.	The Biological Weapons Act 1974.	In section 4(1), the words “named therein” (first time).
1976 c. 58.	The International Carriage of Perishable Foodstuffs Act 1976.	Section 11(6).
1977 NI 4.	The Criminal Damage (Northern Ireland) Order 1977.	In Article 8(1), the words “by information on oath”.
1978 NI 17.	The Protection of Children (Northern Ireland) Order 1978.	In Article 4(1), the words “within fourteen days from the date of the warrant”.
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 138, in subsections (1) and (2), the words “or constable”.
1980 NI 5.	The Domestic Proceedings (Northern Ireland) Order 1980.	Article 19(7).
1980 NI 6.	The Criminal Justice (Northern Ireland) Order 1980.	In Article 10— (a) in paragraph (1), the words from “and if” onwards; and (b) paragraph (4).
1981 NI 1.	The Road Traffic (Northern Ireland) Order 1981.	Article 86(2). In Article 139(4), the words “(1) or” and “at any time within 48 hours of the signing of the warrant”. In Article 180, in paragraph (5)

Status: This is the original version (as it was originally made).

Chapter or Number	Short Title	Extent of repeal
		the words “142 or 172” and paragraph (6).
1981 NI 2.	The Firearms (Northern Ireland) Order 1981.	In Article 45(1), the words “by information on oath” and “named in the warrant”. Article 50.
1981 NI 22.	The Diseases of Animals (Northern Ireland) Order 1981.	Article 42(3).
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	Articles 61, 130 and 131.
1983 NI 13.	The Criminal Attempts and Conspiracy (Northern Ireland) Order 1983.	Article 8(4).
1985 NI 2.	The Wildlife (Northern Ireland) Order 1985.	Article 25(1)(c).
1985 NI 11.	The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.	In Article 180— (a) in paragraph (3), the words “at any time within 14 days from the time of the issue of the warrant”; (b) in paragraph (4) (b) the words “arrest and”; and (c) paragraph (5).
1985 NI 15.	The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.	In Schedule 2, paragraph 24.
1986 NI 4.	The Mental Health (Northern Ireland) Order 1986.	In Article 129, in paragraphs (1), (2), (3) and (4), the words “named therein”.
1987 NI 14.	The Registration of Clubs (Northern Ireland) Order 1987.	In Article 37— (a) in paragraph (3), the words “at any time within 14 days from the time of the issue of the warrant”; (b) in paragraph (4) (b), the words “arrest and”; and (c) paragraph (7).
1988 c. 33.	The Criminal Justice Act 1988.	Section 149 and Schedule 14.
1989 c. 4.	The Prevention of Terrorism (Temporary Provisions) Act 1989.	In Schedule 8, paragraph 10(4).
1989 c. 6.	The Official Secrets Act 1989.	Section 11(2).

PART II

PROVISIONS REPEALED IN RELATION TO CRIMINAL
PROCEEDINGS IN CONSEQUENCE OF PART IX

Chapter	Short Title	Extent of repeal
1851 c. 99.	The Evidence Act 1851.	Section 13.
1865 c. 18.	The Criminal Procedure Act 1865.	In section 6, the words from “and a certificate” onwards.
1871 c. 112.	The Prevention of Crimes Act 1871.	Section 18 except the words “A previous conviction in any one part of the United Kingdom may be proved against a prisoner in any other part of the United Kingdom.”.

PART III

PROVISIONS REPEALED GENERALLY IN CONSEQUENCE OF PART IX

Chapter or Number	Short Title	Extent of repeal
1853 c. 83.	The Evidence Amendment Act 1853.	Section 3.
1883 c. 3.	The Explosive Substances Act 1883.	Section 4(2).
1888 c. 64.	The Law of Libel Amendment Act 1888.	Section 9.
1923 c. 9 (N.I.).	The Criminal Evidence Act (Northern Ireland) 1923.	In section 1— (a) the words “and the wife or husband, as the case may be, of the person so charged”; and (b) provisos (b), (c), (d) and (h). Section 4. In section 5(1), the words from “notwithstanding” to the end. The First Schedule.
1945 c. 15 (N.I.).	The Criminal Justice Act (Northern Ireland) 1945.	Section 26(4).
1951 c. 7 (N.I.).	The Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1951.	Section 7(2), so far as it is unrepealed.
1968 c. 34 (N.I.).	The Children and Young Persons Act (Northern Ireland) 1968.	Section 34.
1971 c. 36 (N.I.).	The Civil Evidence Act (Northern Ireland) 1971.	Section 12(4).

Status: This is the original version (as it was originally made).

Chapter or Number	Short Title	Extent of repeal
1978 NI 17.	The Protection of Children (Northern Ireland) Order 1978.	Article 7(2) to (5).
1981 NI 26.	The Magistrates' Courts (Northern Ireland) Order 1981.	In Article 30(4) the words "make a statement". In Article 125 the words "other than a juvenile court".
1986 NI 4.	The Mental Health (Northern Ireland) Order 1986.	Article 122(5).
1986 NI 18.	The Social Security (Northern Ireland) Order 1986.	Article 57(4) and (5).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes changes in the law in Northern Ireland relating to the powers of the police in the investigation of crime and to evidence in criminal proceedings.

Parts II to V deal with police powers to stop and search persons and vehicles, to enter and search premises, as well as powers of arrest and detention. Part VI is concerned with the questioning and treatment of the persons arrested and detained.

Under Part VII the Secretary of State is required to issue codes of practice for the detention, treatment, questioning and identification of persons by the police and for the searching of premises and the seizure of property by the police.

Part VIII deals with documentary evidence in criminal proceedings and Part IX with evidence generally in such proceedings.

Part X contains a number of general provisions relating to the police.