
STATUTORY INSTRUMENTS

1989 No. 1341

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

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)(1); 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(2);
- (b) offences under the Official Secrets Act 1920(3) 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(4) (procuration); and
- (e) offences under Article 172 of the Road Traffic (Northern Ireland) Order 1981(5) (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(6).

(3) Without prejudice to Article 4 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983(7), 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);

(1) 1981 NI 26
(2) 1979 c. 2
(3) 1920 c. 75
(4) 1885 c. 69
(5) 1981 NI 1
(6) 1969 c. 16 (N.I.)
(7) 1983 NI 13

- (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.
 - (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(8));

- (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⁽⁹⁾, 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⁽¹⁰⁾; or
 - (b) section 15(6) and (9) of the Prevention of Terrorism (Temporary Provisions) Act 1989⁽¹¹⁾ 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.

⁽¹⁰⁾ 1971 c. 77

⁽¹¹⁾ 1989 c. 4

(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.

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⁽¹²⁾.

(12) 1989 c. 4