

# CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2004

## S.I. 2004 No. 1500 (N.I. 9)

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### EXPLANATORY MEMORANDUM

#### COMMENTARY ON ARTICLES

##### Part II - Amendments of PACE

##### Extension of powers to stop and search

8. **Article 3** extends the definition of prohibited articles under Article 3 of PACE to include articles made, adapted or intended for use in causing criminal damage. The effect is to give police powers to stop and search where they have reasonable suspicion that a person is carrying such an article.

##### Bail elsewhere than at a police station

9. **Article 4** enables police officers to grant bail to persons following their arrest without the need to take them to a police station (“street bail”) where there is no immediate need to deal with the arrested person at a police station. It gives police the discretion to decide when and where an arrested person should attend a police station for interview.

##### Limits on periods of detention without charge

10. **Article 5** extends the scope for an officer of at least superintendent rank to authorise detention without charge up to a maximum of 36 hours. The Article allows detention to be extended for up to an overall period of 36 hours where the relevant offence is an arrestable offence, provided the other conditions are satisfied. Previously this power to detain was only authorised in respect of serious arrestable offences.
11. This broadening capacity for extended detention without charge will assist police in dealing effectively with a range of offences, e.g., robbery, where it will sometimes be extremely difficult or impossible to complete the necessary investigatory processes within 24 hours.

##### Property of detained persons

12. **Article 6** removes the requirement on the custody officer to record or cause to be recorded everything a detained person has with him on entering custody. He will still be under a duty to ascertain what the person has with him but the nature and detail of any recording will be at the custody officer’s discretion.
13. This seeks to reduce the serious burden on officers which can rise from recording large volumes of property. It will still be necessary to make records but it will now be open to the police to make judgements about how to balance the need for recording against the amount of administrative work.

**Taking fingerprints without consent**

14. **Article 7** extends the circumstances in which police may take a person's fingerprints without consent to include taking fingerprints from a person arrested for a recordable offence and detained in a police station.
15. The existing requirement to give a person whose fingerprints are taken without consent reasons for doing so and for recording the reason as soon as practical applies to the new power.
16. Speculative searches of fingerprint records will prevent persons who come into police custody and who may be wanted on a warrant or for questioning on other matters from avoiding detection by giving a false name and address. The police will be able to confirm a person's identity whilst he is still in police detention if his fingerprints have been taken previously.
17. It will also assist in enabling violent people to be identified more quickly and dealt with more effectively.

**Taking non-intimate samples without consent**

18. **Article 8** extends the circumstances in which the police may take without consent a non-intimate sample from a person in police detention to include taking such a sample from a person arrested for a recordable offence. The new power is available whether or not the sample is required for the investigation of an offence in which the person is suspected of being involved.
19. The existing requirement to give a person from whom a non intimate sample is taken without consent the reason for doing so and for recording the reason as soon as practical applies to the new power.
20. The amendments do not affect the existing powers to take samples from persons held in custody by the police on the authority of a court.

**Amendments related to Part II**

21. **Article 9** introduces Schedule 1 which deals with amendments related to this Part of the Order.