1989 No. 465

CUSTOMS AND EXCISE

The Police and Criminal Evidence (Application to Customs and Excise) Order (Northern Ireland) 1989

Made	*29th November 1989*
Coming into operation . .	*1st January 1990*
Laid before Parliament	*6th December 1989*

The Treasury, in exercise of the powers conferred on them by Article 85(1) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**a**) hereby makes the following Order:

1. This Order may be cited as the Police and Criminal Evidence (Application to Customs and Excise) Order (Northern Ireland) 1989 and shall come into operation on 1st January 1990.

2.—(1) In this Order, unless the context otherwise requires—

"the 1989 Order" means the Police and Criminal Evidence (Northern Ireland) Order 1989;

"assigned matter" has the meaning given to it by section 1 of the Customs and Excise Management Act 1979(**b**);

"the customs and excise Acts" has the meaning given to it by section 1 of the Customs and Excise Management Act 1979;

"customs office" means a place for the time being occupied by Her Majesty's Customs and Excise;

"officer" means a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979.

(2) For the purpose of this Order, a person is in customs detention if—

(*a*) he has been taken to a customs office after being arrested for an offence; or

(*b*) he is arrested at a customs office after attending voluntarily at the office or accompanying an officer to it,

and is detained there or is detained elsewhere in the charge of an officer.

(3) Nothing in this Order shall prevent a detained person from being transferred between customs detention and police detention.

(**a**) S.I. 1989/1341 (N.I. 12)
(**b**) 1979 c. 2

3.—(1) Subject to the modifications in paragraphs (2) and (3), in Articles 4 to 9 and in Schedule 2, the provisions of the 1989 Order contained in Schedule 1 which relate to investigations of offences conducted by police officers or to persons detained by the police shall apply to investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, and to persons detained by such officers.

(2) The 1989 Order shall have effect as if the words and phrases in column 1 of Part I of Schedule 2 were replaced by the substituted words and phrases in column 2 of that Part.

(3) Where in the 1989 Order any act or thing is to be done by a constable or police officer of a rank specified in column 1 of Part II of Schedule 2, that act or thing shall be done by an officer of at least the grade specified in column 2 of Part II of Schedule 2 and the 1989 Order shall be applied as if that grade were specified in that Order.

4. Nothing in the application of the 1989 Order shall be construed as conferring any power upon an officer to—

(*a*) charge a person with any offences;

(*b*) release a person on bail;

(*c*) detain a person for an offence after he has been charged with that offence.

5.—(1) Where in the 1989 Order a constable is given power to seize and retain any thing found upon a lawful search of any person or premises an officer shall have the same power notwithstanding that the thing found is not evidence of an offence in relation to an assigned matter.

(2) Nothing in the application of the 1989 Order shall be construed so as to prevent any thing lawfully seized by a person under any statutory provision from being accepted and retained by an officer.

(3) Article 23 of the 1989 Order (access and copying) shall not apply to any thing seized as liable to forfeiture under the Customs and Excise Acts.

6. In its application by virtue of Article 3, the 1989 Order shall have effect as if the following Article were inserted after Article 16—

"**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).".

7. Paragraph (1) of Article 20 of the 1989 Order shall be modified in its application by insertion of the words "which relates to an assigned matter as defined in section 1 of the Customs and Excise Management Act 1979", following the words "an arrestable offence," where they appear in that paragraph.

8. Article 56 of the 1989 Order shall have effect as if it related only to things as are mentioned in sub-paragraph (1)(*a*) of that Article.

9. Where any provision of the 1989 Order as applied to Customs and Excise—

(*a*) confers a power on an officer, and

(*b*) does not provide that the power may only be exercised with the consent of some person other than an officer,

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

John Taylor
Tom Sackville
Two of the Lords Commissioners of Her Majesty's Treasury

29th November 1989