

STATUTORY INSTRUMENTS

2004 No. 1500 (N.I. 9)

The Criminal Justice (Northern Ireland) Order 2004

- - - - - 10th June 2004

Modifications etc. (not altering text)

- C1** Order: functions transferred from Secretary of State to Department of Justice (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 4(1)(2), [Sch. 1](#) (with arts. 28-31); [S.I. 2010/977](#), [art. 1\(2\)](#)

PART I

INTRODUCTORY

Title and commencement

- 1.—**(1) This Order may be cited as the Criminal Justice (Northern Ireland) Order 2004.
- (2) The following provisions of this Order shall come into operation on the expiration of one month from the day on which this Order is made—
- (a) this Part;
 - (b) Articles 14, 15, 32, 33, 34 and 36.
- (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.

Subordinate Legislation Made

- P1** [Art. 1\(3\)](#) power partly exercised: different dates appointed for specified provisions by [S.R. 2004/391](#), [arts. 2, 3](#);
- 18.4.2005 for specified provisions by [S.R. 2005/243](#), [art. 2](#)
- 2.2.2009 for specified provisions by [S.R. 2008/471](#), [art. 2](#), [Sch.](#)

Interpretation

- 2.—**(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.
- (2) In this Order—

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“the 1989 Order” means the Police and Criminal Evidence (Northern Ireland) Order 1989 (NI 12);

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

PART II

AMENDMENTS OF POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989

Extension of powers to stop and search

3. In Article 3(8) of the 1989 Order (offences for purpose of definition of prohibited article), at the end of sub-paragraph (e) insert—

“; and

offences under Article 3 of the Criminal Damage (Northern Ireland) Order 1977 (NI 4) (destroying or damaging property).”.

Bail elsewhere than at police station

4.—(1) Article 32 of the 1989 Order (arrest elsewhere than at police station) is amended as follows—

(a) for paragraph (1) substitute—

“(1) Paragraph (1A) shall apply where a person is, at any place other than a police station—

(a) arrested by a constable for an offence; or

(b) taken into custody by a constable after being arrested for an offence by a person other than a constable.

(1A) The person must be taken by a constable to a police station as soon as practicable after the arrest.

(1B) Paragraph (1A) has effect subject to paragraph (10) and Article 32A.”;

(b) in paragraph (2) for “paragraph (1)” substitute “ paragraph (1A) ”;

(c) for paragraph (10) substitute—

“(10) A person arrested by a constable at any place other than a police station must be released without bail if the condition in paragraph (10A) is satisfied.

(10A) The condition is that, at any time before the person arrested reaches a police station, a constable is satisfied that there are no grounds for keeping him under arrest or releasing him on bail under Article 32A.”;

(d) for paragraphs (13) and (14) substitute—

“(13) Nothing in paragraph (1A) or in Article 32A prevents a constable delaying taking a person to a police station or releasing him on bail if the condition in paragraph (13A) is satisfied.

(13A) The condition is that the presence of the person at a place (other than a police station) is necessary in order to carry out such investigations as it is reasonable to carry out immediately.

- (14) Where there is any such delay the reasons for the delay must be recorded when the person first arrives at the police station or (as the case may be) is released on bail.” ;
- (e) in paragraph (15) for “paragraph (1)” substitute “ paragraph (1A) or Article 32A ”.
- (2) After Article 32 of the 1989 Order insert—

“Bail elsewhere than at police station

32A.—(1) A constable may release on bail a person who is arrested or taken into custody in the circumstances mentioned in Article 32(1).

(2) A person may be released on bail under paragraph (1) at any time before he arrives at a police station.

(3) A person released on bail under paragraph (1) must be required to attend a police station.

(4) No other requirement may be imposed on the person as a condition of bail.

(5) The police station which the person is required to attend may be any police station.

Bail under Article 32A: notices

32B.—(1) Where a constable grants bail to a person under Article 32A, he must give that person a notice in writing before he is released.

(2) The notice must state—

(a) the offence for which he was arrested; and

(b) the ground on which he was arrested.

(3) The notice must inform him that he is required to attend a police station.

(4) It may also specify the police station which he is required to attend and the time when he is required to attend.

(5) If the notice does not include the information mentioned in paragraph (4), the person must subsequently be given a further notice in writing which contains that information.

(6) The person may be required to attend a different police station from that specified in the notice under paragraph (1) or (5) or to attend at a different time.

(7) He must be given notice in writing of such change as is mentioned in paragraph (6) but more than one such notice may be given to him.

Bail under Article 32A: supplemental

32C.—(1) A person who has been required to attend a police station is not required to do so if he is given notice in writing that his attendance is no longer required.

(2) If a person is required to attend a police station which is not a designated police station he must be—

(a) released; or

(b) taken to a designated police station,

not more than six hours after his arrival.

(3) Nothing in Part II of the Criminal Justice (Northern Ireland) Order 2003 (NI 13) (bail in criminal proceedings) applies in relation to bail under Article 32A.

(4) Nothing in Article 32A or 32B or in this Article prevents the re-arrest without a warrant of a person released on bail under Article 32A if new evidence justifying a further arrest has come to light since his release.

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Failure to answer to bail under Article 32A

32D.—(1) A constable may arrest without warrant a person who—

- (a) has been released on bail under Article 32A subject to a requirement to attend a specified police station; but
- (b) fails to attend the police station at the specified time.

(2) A person arrested under paragraph (1) must be taken to a police station (which may be the specified police station or any other police station) as soon as practicable after the arrest.

(3) In paragraph (1), “specified” means specified in a notice under paragraph (1) or (5) of Article 32B or, if notice of change has been given under paragraph (7) of that Article, in that notice.

(4) For the purposes of—

- (a) Article 32 (subject to the obligation in paragraph (2)); and
- (b) Article 33,

an arrest under this Article is to be treated as an arrest for an offence.” .

Limits on periods of detention without charge

5. In Article 43(1) of the 1989 Order (conditions to be satisfied before detention without charge may be extended from 24 to 36 hours), for sub-paragraph (b) substitute—

“(b) an offence for which he is under arrest is an arrestable offence; and” .

Property of detained persons

6.—(1) Article 55 of the 1989 Order (searches of detained persons) is amended as follows.

(2) In paragraph (1) (custody officer at a police station to ascertain and record everything which a detained person has with him) omit “and record or cause to be recorded”.

(3) For paragraph (2) (record of arrested person to be made as part of custody record) substitute—

“(2) The custody officer may record or cause to be recorded all or any of the things which he ascertains under paragraph (1).

(2A) In the case of an arrested person, any such record may be made as part of his custody record.” .

Taking fingerprints without consent

7.—(1) Article 61 of the 1989 Order (fingerprinting) is amended as follows.

(2) For paragraphs (3) and (4) (taking of fingerprints without appropriate consent) substitute—

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

- (a) he is detained in consequence of his arrest for a recordable offence; and
- (b) he has not had his fingerprints taken in the course of the investigation of the offence by the police.

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

- (a) he has been charged with a recordable offence or informed that he will be reported for such an offence; and

- (b) he has not had his fingerprints taken in the course of the investigation of the offence by the police.” .
- (3) Paragraph (5) (authorisation to be given or confirmed in writing) shall cease to have effect.
- (4) In paragraph (7) (reasons for taking of fingerprints without consent) for “paragraph (3) or (6)” substitute “ paragraph (3), (4) or (6) ”.

Taking non-intimate samples without consent

- 8.—(1) Article 63 of the 1989 Order (other samples) is amended as follows.
- (2) After paragraph (2) (consent to be given in writing) insert—
- “(2A) A non-intimate sample may be taken from a person without the appropriate consent if—
- (a) he is in police detention in consequence of his arrest for a recordable offence; and
 - (b) either he has not had a non-intimate sample of the same type and from the same part of the body taken in the course of the investigation of the offence by the police, or he has had such a sample taken but it proved insufficient.” .
- (3) In paragraph (3)(a) (taking of samples without appropriate consent) omit “is in police detention or”.
- (4) In paragraph (3A) (taking of samples without appropriate consent after charge) for “(whether or not he falls within paragraph (3)(a))” substitute “ (whether or not he is in police detention or held in custody by the police on the authority of a court) ”.
- (5) In paragraph (8A) (reasons for taking of samples without consent) for “paragraph (3A)” substitute “ paragraph (2A), (3A) ”.

Article 9—Amendments (related to the provisions of this Part)

PART III

LIVE LINKS

Live links in criminal proceedings

- 10.—(1) A witness (other than the defendant) may, if the court so directs, give evidence through a live link in the following criminal proceedings.
- (2) They are—
- (a) a summary trial;
 - (b) an appeal to a county court arising out of such a trial;
 - (c) a preliminary investigation or preliminary inquiry into an indictable offence;
 - (d) a trial on indictment;
 - (e) an appeal to the Court of Appeal;
 - (f) the hearing of a reference under section 10 or 12 of the Criminal Appeal Act 1995 (c. 35);
 - (g) a hearing before a magistrates' court or the Crown Court which is held after the defendant has entered a plea of guilty; and
 - (h) a hearing before the Court of Appeal under section 80 of the Criminal Justice Act 2003 (c. 44).
- (3) A direction may be given under this Article—