Changes to legislation: *The Police (Amendment) (Northern Ireland) Order 1995 is up to date with all changes known to be in force on or before 05 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1995 No. 2993 (N.I. 17)

The Police (Amendment) (Northern Ireland) Order 1995

- - - - - - *23rd November 1995*

PART I

Introductory

Title and commencement

1.—(1) This Order may be cited as the Police (Amendment) (Northern Ireland) Order 1995.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint[F1].

(3) An order under paragraph (2) may make such transitional provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with any provision brought into operation by the order.

F1 partly exercised by SR 1996/316

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F2] 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—

Definition rep by 1998 c. 32

[F3]"the 1987 Order" means the Police (Northern Ireland) Order 1987[F4];

"the 1989 Order" means the Police and Criminal Evidence (Northern Ireland) Order 1989[F5].

F2 1954 c. 33 (NI)
F3 prosp. rep. by 1998 c. 32
F4 1987 NI 10
F5 1989 NI 12

Changes to legislation: *The Police (Amendment) (Northern Ireland) Order 1995 is up to date with all changes known to be in force on or before 05 May 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART II

Police Powers

Application of 1989 Order to persons taken to police station from custodial establishments.

3.—(1) In Article 2(3) of the 1989 Order (circumstances in which a person is in police detention for the purpose of that Order) after sub-paragraph (b) there shall be added "or

(c) he is arrested at a police station after being taken to the station in pursuance of a direction under section 16 of the Prison Act (Northern Ireland) 1953," .

(2) Article 31 of the 1989 Order shall be renumbered as paragraph (1) of that Article and at the end of that Article there shall be added the following paragraph—

"(2) Where—

(a) a person is taken to a police station in pursuance of a direction under section 16 of the Prison Act (Northern Ireland) 1953; and

(b) while he is there it appears to a constable that he is liable to arrest for an offence,

he shall be arrested for that offence.".

(3) In Article 35 of the 1989 Order in paragraph (2) for the words "paragraph (4)" there shall be substituted the words "paragraphs (4) and (4A)" and after paragraph (4) there shall be inserted the following paragraph—

"(4A) Nothing in this Part requires the release of a person who was arrested after being taken to a police station from a custodial establishment in pursuance of a direction under section 16 of the Prison Act (Northern Ireland) 1953 and this Part shall have effect in relation to such a person as if references to a person being released (either on bail or without bail) were references to a person being returned to the custody of the governor of the custodial establishment from which he was taken to the police station.".

(4) In Article 42(2)(b) of the 1989 Order after head (ii) there shall be inserted "or

(iii) is taken to a police station in pursuance of a direction under section 16 of the Prison Act (Northern Ireland) 1953;" .

Entry to arrest a person unlawfully at large

4. In Article 19(1) of the 1989 Order (entry for purpose of arrest) after sub-paragraph (c) there shall be inserted the following sub-paragraphs—

"(ca) of recapturing a person who is, or is deemed for any purpose to be, unlawfully at large while liable to be detained in a prison, young offenders centre, training school, remand centre or remand home or in any other place in pursuance of section 73 of the Children and Young Persons Act (Northern Ireland) 1968;

(cb) of arresting a person in pursuance of section 49(1) of the Prison Act 1952 or section 40(1) of the Prisons (Scotland) Act 1989;".

Extension of powers to search persons' mouths

5.—(1) In Article 34 of the 1989 Order (powers of search upon arrest) in paragraph (4), at the end,there shall be added the words "but they do authorise a search of a person's mouth".

(2) In Article 53 of the 1989 Order (interpretation) after the definition of "intimate sample" there shall be inserted the following definition—

""intimate search" means a search which consists of the physical examination of a person's body orifices other than the mouth;".

Police detention after charge

6.—(1) Article 39 of the 1989 Order (which requires an arrested person charged with an offence to be released except in specified circumstances) shall be amended as follows.

(2) In paragraph (1)(a) after head (i) there shall be inserted the following head—

"(ia) in the case of a person arrested for an imprisonable offence, the custody officer has reasonable grounds for believing that the detention of the person arrested is necessary to prevent him from committing an offence;".

(3) After paragraph (1) there shall be inserted the following paragraph

"(1A) In paragraph (1) "imprisonable offence" means an offence for which a person over the age of 21 years is liable, on first conviction, to a term of imprisonment.".

Power for police to arrest for failure to answer police bail

7.—(1) After Article 47 of the 1989 Order there shall be inserted the following Article—

"**Power of arrest for failure to answer to police bail**

47A.—(1) A constable may arrest without a warrant any person who, having been released on bail under this Part subject to a duty to attend at a police station, fails to attend at that police station at the time appointed for him to do so.

(2) A person who is arrested under this Article shall be taken to the police station appointed as the place at which he is to surrender to custody as soon as practicable after the arrest.

(3) For the purposes of—

(a) Article 32 (subject to the obligation in paragraph (2), and

(b) Article 33,

an arrest under this Article shall be treated as an arrest for an offence.".

[F6](2) In Article 35 of the 1989 Order (limitations on police detention) after paragraph (7) there shall be added the following paragraph—

"(8) For the purposes of this Part a person who returns to a police station to answer to bail or is arrested under Article 47A shall be treated as arrested for an offence and the offence in connection with which he was granted bail shall be deemed to be that offence.".

(3) In consequence of the foregoing amendments the 1989 Order shall be amended as follows—

(a) in Article 38(1), sub-paragraph (b) shall be omitted;

(b) in Articles 42(7), 43(10) and 44(18), at the end, there shall be inserted the words "; but this paragraph does not prevent an arrest under Article 47A."; and

(c) in Article 48(11), at the end, there shall be inserted the words "; but this paragraph does not apply to a person who is arrested under Article 47A or has attended a police station in accordance with the grant of bail (and who accordingly is deemed by Article 35(8) to have been arrested for an offence).".

(4) This Article applies whether the person released on bail was granted bail before or after the coming into operation of this Article.

F6 prosp. rep. by 2004 NI 9

Samples: intimate and non-intimate, etc.

8.—(1) Article 53 of the 1989 Order (which contains definitions of intimate and non-intimate samples and other relevant definitions) shall be amended as follows.

(2) For the definition of "intimate sample" there shall be substituted—

""intimate sample" means—

(a) a sample of blood, semen or any other tissue fluid, urine or pubic hair;

(b) a dental impression;

(c) a swab taken from a person's body orifice other than the mouth;".

(3) For the definition of "non-intimate sample" there shall be substituted—

""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 swab taken from any part of a person's body including the mouth but not any other body orifice;

(d) saliva;

(e) a footprint or a similar impression of any part of a person's body other than a part of his hand;".

(4) After the definition of "non-intimate sample" there shall be inserted the following definitions—

""registered dentist" has the same meaning as in the Dentists Act 1984;

"speculative search", in relation to a person's fingerprints or samples, means such a check against other fingerprints or samples or against information derived from other samples as is referred to in Article 63A(1);

"sufficient" and "insufficient", in relation to a sample, means sufficient or insufficient (in point of quantity or quality) for the purpose of enabling information to be produced by the means of analysis used or to be used in relation to the sample.".

Fingerprinting

9.—(1) Article 61 of the 1989 Order (which regulates the taking of fingerprints) shall be amended as follows.

(2) After paragraph (7) there shall be inserted the following paragraph—

"(7A) If a person's fingerprints are taken at a police station, whether with or without the appropriate consent—

(a) before the fingerprints are taken, an officer shall inform him that they may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the fingerprints have been taken."

(3) In paragraph (8), after the word "them" there shall be inserted the words "and, in the case falling within paragraph (7A), the fact referred to in sub-paragraph (b) of that paragraph".

Para. (4) rep. by 1996 c.22

Powers of police to take intimate body samples

10.—(1) Article 62 of the 1989 Order (regulation of taking of intimate samples) shall be amended as follows.

(2) After paragraph (1) there shall be inserted the following paragraph—

"(1A) An intimate sample may be taken from a person who is not in police detention but from whom, in the course of the investigation of an offence, two or more non-intimate samples suitable for the same means of analysis have been taken which have proved insufficient—

(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.".

(3) In paragraph (2)—

(a) after the word "authorisation" there shall be inserted the words "under paragraph (1) or (1A)"; and

(b) in sub-paragraph (a), for the words "serious arrestable offence" there shall be substituted the words "recordable offence".

(4) In paragraph (3), after the words "paragraph (1)" there shall be inserted the words "or (1A)".

(5) After paragraph (7) there shall be inserted the following paragraph—

"(7A) If an intimate sample is taken from a person at a police station—

(a) before the sample is taken, an officer shall inform him that it may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as practicable after the sample has been taken.".

(6) In paragraph (8) after the words "paragraph (7)" there shall be inserted the words "or (7A)".

(7) In paragraph (9)—

(a) after the word "urine" there shall be inserted the words "or a dental impression"; and

(b) at the end there shall be inserted the words "and a dental impression may only be taken by a registered dentist".

Para. (8) rep. by 2000 c. 11

Powers of police to take non-intimate body samples

11.—(1) Articles 63 of the 1989 Order (regulation of taking of non-intimate samples) shall be amended as follows.

(2) After paragraph (3), there shall be inserted the following paragraphs—

"(3A) A non-intimate sample may be taken from a person (whether or not he falls within paragraph (3)(a)) 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) either he has not had a non-intimate sample taken from him in the course of the investigation of the offence by the police or he has had a non-intimate sample taken from him but either it was not suitable for the same means of analysis or, though so suitable, the sample proved insufficient.

(3B) A non-intimate sample may be taken from a person without the appropriate consent if he has been convicted of a recordable offence.".

(3) In paragraph (4), in sub-paragraph (a), for the words "serious arrestable offence" there shall be substituted the words "recordable offence".