Status: *This version of this Order contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Police and Criminal Evidence (Northern Ireland) Order 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1989 No. 1341 (N.I. 12)

The Police and Criminal Evidence (Northern Ireland) Order 1989 [F1]

- - - - - - *2nd August 1989*

F1 mod. by 2005 c. 2

Modifications etc. (not altering text)

C1 Order applied (with modifications) (19.5.2015) by The Crime and Courts Act 2013 (National Crime Agency and Proceeds of Crime) (Northern Ireland) Order 2015 (S.I. 2015/798), art. 6, **Sch. 3**

C2 Order extended by Police (Northern Ireland) Act 2003 (c. 6), Sch. 4 para. 23A (as inserted (prosp.) by Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)), arts. 1(2), 6(2), **Sch. 4 para. 5**)

C3 Order power to apply (with modifications) conferred (21.7.2009) by Borders, Citizenship and Immigration Act 2009 (c. 11), **ss. 23**, 58(1) (with saving in s. 36(4))

C4 Order: functions of Secretary of State transferred 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)**

C5 Order: functions of Lord Chancellor transferred 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), 15(1), **Sch. 17 para. 41** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Police and Criminal Evidence (Northern Ireland) Order 1989.

(2) This Article and Articles 2, 29(4), 60(a), 65, 66 and 89 shall come into operation on the expiration of one month from the day on which the Order is made.

(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[F2].

(4) An order under paragraph (3) may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into operation.

F2 partly exercised by SR 1989/404, SR 1989/441

General interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F3] 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—

[F4] . . . . . .

"designated police station" has the meaning assigned to it by Article 36;

"document"**[**[F5] means anything in which information of any description is recorded**]**;

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

"items subject to legal privilege" has the meaning assigned to it by Article 12;

"parent or guardian" means—
Sub#para. (a) rep. by 1995 NI 2

(b) in the case of a child[F6]. . . in the care of a Health and Social Services Board**[**[F7] or **[**[F8]Health and Social Care trust**]]**, that Board**[**[F7] or **[**[F8]Health and Social Care trust**]]**;

Definitions rep. by 2000 c. 32

"premises" has the meaning assigned to it by Article 25;

"recordable offence" means any offence to which regulations under Article 29 apply;

[F9] . . . . . .

"statutory provision" has the meaning given in section 1(*f*) of the Interpretation Act (Northern Ireland) 1954[F10];

[[F11]"the terrorism provisions" means section 41 of the Terrorism Act 2000, and any provision of Schedule 7 to that Act conferring a power of detention;**]**

[[F11]"terrorism" has the meaning given in section 1 of that Act.**]**

"vessel" includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

(3) Subject to **[**[F12]paragraphs (4) and (4A)**]**, a person is in police detention for the purposes of this Order if—

(a) he has been taken to a police station after being arrested for an offence or after being arrested under**[**[F13] section 41 of the Terrorism Act 2000**]**; or

(b) he is arrested at a police station after attending voluntarily at the station or accompanying a constable to it,**[**[F14] or**]**

[[F14](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,**]**

and is detained there or is detained elsewhere in the charge of a constable.

(4) A person—

(a) who is at a court after being charged; or

(b) who has been taken from a custodial establishment and held in police custody pending his appearance at a court,

is not in police detention for those purposes.

[F15(4A) Where a person is in another's lawful custody by virtue of paragraph 8, 22(1) or 23(2) of Schedule 2 to the Police (Northern Ireland) Act 2003, he shall be treated as being in police detention for the purposes of this Order.**]**

[F16(5) In this Order "custodial establishment" includes a prison, a young offenders centre, a juvenile justice centre and a remand centre.**]**

F3 1954 c. 33 (NI)
F4 Art. 2(2): definition of "arrestable offence" repealed (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), 41(2), Sch. 1 para. 26(1), **Sch. 2**
F5 1997 NI 21
F6 rep. by 1998 NI 9
F7 1995 NI 2
F8 Art. 2(2): words in definition of "parent or guardian" substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(c)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
F9 Art. 2(2): definition of "serious arrestable offence" repealed (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 15(4), 41(2), Sch. 1 para. 26(1), **Sch. 2**
F10 1954 c. 33 (NI)
F11 2000 c. 11
F12 Words in art. 2(3) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **41(1)**
F13 2000 c. 11
F14 1995 NI 17
F15 2003 c. 6
F16 1998 NI 9

PART II

POWERS TO STOP AND SEARCH

Power of constable to stop and search persons, vehicles etc.

3.—(1) A constable may exercise any power conferred by this Article—

(a) in any place to which at the time when he proposes to exercise the power the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; or

(b) in any other place to which people have ready access at the time when he proposes to exercise the power but which is not a dwelling.

(2) Subject to paragraphs (3) to (5), a constable—

(a) may search—

(i) any person or vehicle;

(ii) anything which is in or on a vehicle,

for stolen or prohibited articles **[**F17, any article to which paragraph (9) applies or any firework to which paragraph (9A) applies**]**; and

(b) may detain a person or vehicle for the purpose of such a search.

(3) This Article does not give a constable power to search a person or vehicle or anything in or on a vehicle unless he has reasonable grounds for suspecting that he will find stolen or prohibited articles **[**F18, any article to which paragraph (9) applies or any firework to which paragraph (9A) applies**]**.

(4) If a person is in a garden or yard occupied with and used for the purposes of a dwelling or on other land so occupied and used, a constable may not search him in the exercise of the power conferred by this Article unless the constable has reasonable grounds for believing—

(a) that he does not reside in the dwelling; and

(b) that he is not in the place in question with the express or implied permission of a person who resides in the dwelling.

(5) If a vehicle is in a garden or yard occupied with and used for the purposes of a dwelling or on other land so occupied and used, a constable may not search the vehicle or anything in or on it in the exercise of the power conferred by this Article unless he has reasonable grounds for believing—

(a) that the person in charge of the vehicle does not reside in the dwelling; and

(b) that the vehicle is not in the place in question with the express or implied permission of a person who resides in the dwelling.

(6) If in the course of such a search a constable discovers an article which he has reasonable grounds for suspecting to be a stolen or prohibited article **[**F19, an article to which paragraph (9) applies or a firework to which paragraph (9A) below applies**]**, he may seize it.

(7) An article is prohibited for the purposes of this Part if it is—

(a) an offensive weapon; or

(b) an article—

(i) made or adapted for use in the course of or in connection with an offence to which this sub#paragraph applies; or

(ii) intended by the person having it with him for such use by him or by some other person.

(8) The offences to which sub#paragraph (b) of paragraph (7) applies are—

(a) burglary;

(b) theft;

(c) offences under section 12(2) of the Theft Act (Northern Ireland) 1969F20 (taking of vehicles and other conveyances without authority);

[F21(d) fraud (contrary to section 1 of the Fraud Act 2006).**]**

(e) offences under Article 172 of the Road Traffic (Northern Ireland) Order 1981F22 (taking of motor vehicle, etc. without owner's consent or authority)**[**F23;and**]**

[F23(f) offences under Article 3 of the Criminal Damage (Northern Ireland) Order 1977 (NI 4) (destroying or damaging property).**]**

(9) This paragraph applies to any article in relation to which a person has committed, or is committing or is going to commit an offence under section 139 of the Criminal Justice Act 1988F24 (offence of having article with blade or point in public place).

[F25(9A) This paragraph applies to any firework within the meaning of the Explosives (Fireworks) Regulations (Northern Ireland) 2002 (SR 2002 No. 147) which a person possesses in contravention of those Regulations.**]**

(10) In this Part "offensive weapon" means any article—

(a) made or adapted for use for causing injury to persons; or

(b) intended by the person having it with him for such use by him or by some other person.

F17 Words in art. 3(2) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **3(2)**
F18 Words in art. 3(3) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **3(3)**
F19 Words in art. 3(6) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **3(4)**
F20 1969 c. 16 (NI)
F21 Art. 3(8)(d) substituted (15.1.2007) by Fraud Act 2006 (c. 35), ss. 14(1), 15(1), **Sch. 1 para. 23**; S.I. 2006/3200, **art. 2**
F22 1981 NI 1
F23 2004 NI 9
F24 1988 c. 33
F25 Art. 3(9A) inserted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **3(5)**

Modifications etc. (not altering text)
C6 Art. 3 extended (prosp.) by Police (Northern Ireland) Act 2003 (c. 6), Sch. 2A para. 17(a) (as inserted (prosp.) by Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)), arts. 1(2), 7(8), **Sch. 5**)
C7 Art. 3 applied (with modifications) (18.5.2009) by Police and Criminal Evidence (Application to the Police Ombudsman) Order (Northern Ireland) 2009 (S.R. 2009/142), art. 3, **Sch. 1**, Sch. 2
C8 Art. 3(7)(b) modified (15.1.2007) by Fraud Act 2006 (c. 35), **ss. 8**, 15(1); S.I. 2006/3200, **art. 2**

Provisions relating to search under Article 3 and other powers

4.—(1) A constable who detains a person or vehicle in the exercise—

(a) of the power conferred by Article 3; or

(b) of any other power—

(i) to search a person without first arresting him; or

(ii) to search a vehicle without making an arrest,

need not conduct a search if it appears to him subsequently—

(i) that no search is required; or

(ii) that a search is impracticable.

(2) If a constable contemplates a search, other than a search of an unattended vehicle, in the exercise—

(a) of the power conferred by Article 3; or

(b) of any other power, except a power conferred by any of the provisions referred to in paragraph (3)—

(i) to search a person without first arresting him; or

(ii) to search a vehicle without making an arrest,

it shall be his duty, subject to paragraph (5), to take reasonable steps before he commences the search to bring to the attention of the appropriate person—

(i) if the constable is not in uniform, documentary evidence that he is a constable; and

(ii) whether he is in uniform or not, the matters specified in paragraph (4);

and the constable shall not commence the search until he has performed that duty.

(3) The provisions referred to for the purposes of paragraph (2)(b) are—