
STATUTORY INSTRUMENTS

1989 No. 1341

**The Police and Criminal Evidence
(Northern Ireland) Order 1989**

PART VI

QUESTIONING AND TREATMENT OF PERSONS BY POLICE

Intimate samples

62.—(1) An intimate sample may be taken from a person in police detention only—

- (a) if a police officer of at least the rank of [^{F1}inspector] authorises it to be taken; and
- (b) if the appropriate consent is given.

[^{F2}(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 [^{F3}inspector] authorises it to be taken; and
- (b) if the appropriate consent is given.]

(2) An officer may only give an authorisation [^{F2} under paragraph (1) or (1A)] if he has reasonable grounds—

- (a) for suspecting the involvement of the person from whom the sample is to be taken in a [^{F2} recordable offence]; and
- (b) for believing that the sample will tend to confirm or disprove his involvement.

(3) An officer may give an authorisation under paragraph (1) [^{F2} or (1A)] orally or in writing but, if he gives it orally, he shall confirm it in writing as soon as is practicable.

(4) The appropriate consent must be given in writing.

(5) Where—

- (a) an authorisation has been given; and
- (b) it is proposed that an intimate sample shall be taken in pursuance of the authorisation,

an officer shall inform the person from whom the sample is to be taken—

- (i) of the giving of the authorisation; and
- (ii) of the grounds for giving it.

(6) The duty imposed by paragraph (5)(ii) includes a duty to state the nature of the offence in which it is suspected that the person from whom the sample is to be taken has been involved.

(7) If an intimate sample is taken from a person—

- (a) the authorisation by virtue of which it was taken;
- (b) the grounds for giving the authorisation; and

Status: Point in time view as at 12/04/2010. This version of this provision has been superseded.

Changes to legislation: The Police and Criminal Evidence (Northern Ireland) Order 1989, Section 62 is up to date with all changes known to be in force on or before 26 July 2024. 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)

(c) the fact that the appropriate consent was given,
shall be recorded as soon as is practicable after the sample is taken.

[^{F2}(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.]

(8) If an intimate sample is taken from a person detained at a police station, the matters required to be recorded by paragraph (7)[^{F2} or (7A)] shall be recorded in his custody record.

[^{F4}(9) In the case of an intimate sample which is a dental impression, the sample may be taken from a person only by a registered dentist.

(9A) In the case of any other form of intimate sample, except in the case of a sample of urine, the sample may be taken from a person only by one of the following—

- (a) a medical practitioner;
- (b) a registered health care professional.]

(10) Where the appropriate consent to the taking of an intimate sample from a person was refused without good cause, in any proceedings against that person for an offence—

- (a) the court, in determining—
 - (i) whether to commit that person for trial; or
 - (ii) whether there is a case to answer; and

[^{F5}(aa) a judge, in deciding whether to grant an application made by the accused under paragraph 4 of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995 (application for dismissal of charge of violent or sexual offence involving child in respect of which notice of transfer has been given under Article 4 of that Order); and]

(b) the court or jury, in determining whether that person is guilty of the offence charged, may draw such inferences from the refusal as appear proper; and the refusal may, on the basis of such inferences, be treated as, or as capable of amounting to, corroboration of any evidence against the person in relation to which the refusal is material.

[^{F6}(11) Nothing in this Article affects Articles 13 to 21 of the Road Traffic (Northern Ireland) Order 1995[^{F7} or Articles 18 and 19 of the Road Traffic Offenders (Northern Ireland) Order 1996].]

[^{F8}(12) Nothing in this Article applies to a person arrested or detained under the terrorism provisions; and paragraph (1A) shall not apply where the non-intimate samples mentioned in that paragraph were taken under paragraph 10 of Schedule 8 to the Terrorism Act 2000.]

F1 Word in art. 62(1)(a) substituted (1.3.2007) by [Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288 \(N.I. 2\)\)](#), arts. 1(2), **32**

F2 1995 NI 17

F3 Word in art. 62(1A)(a) substituted (1.3.2007) by [Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288 \(N.I. 2\)\)](#), arts. 1(2), **32**

F4 Art. 62(9)(9A) substituted (1.3.2007) for art. 62(9) by [Police \(Northern Ireland\) Act 2003 \(c. 6\)](#), s. 42(2)(6); S.R. 2007/177, **art. 2**

F5 1995 NI 3

F6 1995 NI 18

F7 1996 NI 10

F8 2000 c. 11

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Modifications etc. (not altering text)

- C1** Art. 62(1)-(9) applied (with modifications) (1.12.2007) by Police and Criminal Evidence (Application to Revenue and Customs) Order (Northern Ireland) 2007 (S.R. 2007/464), arts. 3-15, **Sch. 1**, Sch. 2
- C2** Art. 62(1)-(9A) 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

Status:

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