
STATUTORY INSTRUMENTS

1989 No. 1341

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

PART VI

QUESTIONING AND TREATMENT OF PERSONS BY POLICE

Fingerprinting

61.—(1) Except as provided by this Article no person's fingerprints may be taken without the appropriate consent.

(2) Consent to the taking of a person's fingerprints must be in writing if it is given at a time when he is at a police station.

[^{F1}(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.]

[^{F2}(4A) Where a person mentioned in sub-paragraph (a) of paragraph (3) or (4) has already has his fingerprints taken in the course of the investigation of the offence by the police, that fact shall be disregarded for the purposes of that paragraph if—

- (a) the fingerprints taken on the previous occasion do not constitute a complete set of his fingerprints; or
- (b) some or all of the fingerprints taken on the previous occasion are not of sufficient quality to allow satisfactory analysis, comparison or matching (whether in the case in question or generally).

(4AA) The fingerprints of a person who has answered to bail at a court or police station may be taken without the appropriate consent at the court or station if—

- (a) the court, or
- (b) an officer of at least the rank of inspector,

authorises them to be taken.

(4B) A court or officer may only give an authorisation under paragraph (4AA) if—

Status: Point in time view as at 20/12/2023.

Changes to legislation: The Police and Criminal Evidence (Northern Ireland) Order 1989, Section 61 is up to date with all changes known to be in force on or before 15 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)

- (a) the person who has answered to bail has answered to it for a person whose fingerprints were taken on a previous occasion and there are reasonable grounds for believing that he is not the same person; or
 - (b) the person who has answered to bail claims to be a different person from a person whose fingerprints were taken on a previous occasion.”
- (5) An officer may give an authorisation under paragraph (4AA) orally or in writing, but if he gives it orally he shall confirm it in writing as soon as is practicable.]
- (6) Any person's fingerprints may be taken without the appropriate consent if
- [^{F3}(a) he has been convicted of a recordable offence; or
 - (b) he has been given a caution in respect of a recordable offence which, at the time of the caution, he has admitted.]
- [^{F4}(6A) A constable may take a person's fingerprints without the appropriate consent if—
- (a) the constable reasonably suspects that the person is committing or attempting to commit an offence, or has committed or attempted to commit an offence; and
 - (b) either of the two conditions mentioned in paragraph (6B) is met.
- (6B) The conditions are that—
- (a) the name of the person is unknown to, and cannot be readily ascertained by, the constable;
 - (b) the constable has reasonable grounds for doubting whether a name furnished by the person as his name is his real name.
- (6C) The taking of fingerprints by virtue of paragraph (6A) does not count for any of the purposes of this Order as taking them in the course of the investigation of an offence by the police.]
- (7) In a case where by virtue of [^{F1} paragraph (3), (4) [^{F5}, (6) or (6A)]] a person's fingerprints are taken without the appropriate consent—
- (a) he shall be told the reason before his fingerprints are taken; and
 - (b) the reason shall be recorded as soon as is practicable after the fingerprints are taken.
- [^{F6}(7A) If a person's fingerprints are taken at a police station, [^{F7}or by virtue of paragraph (6A) at a place other than a police station,] whether with or without the appropriate consent—
- (a) before the fingerprints are taken, an officer [^{F8}(or, in a paragraph (6A) case, the constable)] 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.]
- (8) If he is detained at a police station when the fingerprints are taken, the reason for taking them [^{F6} and, in the case falling within paragraph (7A), the fact referred to in sub-paragraph (b) of that paragraph] shall be recorded on his custody record.
- [^{F9}(8A) The fingerprints of a person detained at a police station may be taken without the appropriate consent by a constable.]
- (8B) ^{F10}
- (9) Nothing in this Article—
- (a) affects any power conferred by paragraph 18(2) of Schedule 2 to the Immigration Act 1971 [^{F11}, section 141 of the Immigration and Asylum Act 1999 or regulations made under section 144 of that Act]; or

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[^{F12}(b) applies to a person arrested or detained under the terrorism provisions [^{F13}or under section 27 of the National Security Act 2023,][^{F14} or detained under Part 1 of Schedule 3 to the Counter-Terrorism and Border Security Act 2019]]

[^{F15}(10) Nothing in this Article applies to a person arrested under an extradition arrest power.]

- F1** 2004 NI 9
- F2** Art. 61(4A)-(5) inserted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **30(2)**
- F3** Words in art. 61(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), **30(3)**
- F4** Art. 61(6A)-(6C) inserted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **30(4)**
- F5** Words in art. 61(7) substituted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **30(5)**
- F6** 1995 NI 17
- F7** Words in art. 61(7A) inserted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **30(6)(a)**
- F8** Words in art. 61(7A)(a) inserted (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **30(6)(b)**
- F9** 2003 c. 6
- F10** Art. 61(8B) repealed (12.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 112(1)(2), 116(6), Sch. 7 para. 128(2), **Sch. 8 Pt. 13**
- F11** 1999 c. 33
- F12** 2000 c. 11
- F13** Words in art. 61(9)(b) inserted (20.12.2023) by National Security Act 2023 (c. 32), s. 100(1), **Sch. 18 para. 5(5)** (with s. 97); S.I. 2023/1272, reg. 2(f)
- F14** Words in art. 61(9)(b) inserted (13.8.2020) by Counter-Terrorism and Border Security Act 2019 (c. 3), s. 27(2)(d), **Sch. 4 para. 20(5)**; S.I. 2020/792, reg. 2(i)
- F15** 2003 c. 41

Modifications etc. (not altering text)

- C1** Art. 61 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

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