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STATUTORY INSTRUMENTS

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**1989 No. 1341**

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

**PART III**

**POWERS OF ENTRY, SEARCH AND SEIZURE**

*Seizure etc.*

**General power of seizure etc.**

**21.**—(1) The powers conferred by paragraphs (2), (3) and (4) are exercisable by a constable who is lawfully on any premises.

(2) The constable may seize anything which is on the premises if he has reasonable grounds for believing—

- (a) that it has been obtained in consequence of the commission of an offence; and
- (b) that it is necessary to seize it in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) The constable may seize anything which is on the premises if he has reasonable grounds for believing—

- (a) that it is evidence in relation to an offence which he is investigating or any other offence; and
- (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, damaged, altered or destroyed.

(4) The constable may require any information which is<sup>F1</sup> stored in any electronic form] and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible<sup>F2</sup> or from which it can readily be produced in a visible and legible form] if he has reasonable grounds for believing—

- (a) that—
  - (i) it is evidence in relation to an offence which he is investigating or any other offence; or
  - (ii) it has been obtained in consequence of the commission of an offence; and
- (b) that it is necessary to do so in order to prevent it being concealed, lost, tampered with or destroyed.

(5) The powers conferred by this Article are in addition to any power otherwise conferred.

(6) No power of seizure conferred on a constable under any statutory provision (including a statutory provision passed or made after the making of this Order) is to be taken to authorise the seizure of an item which the constable exercising the power has reasonable grounds for believing to be subject to legal privilege.

**Status:** Point in time view as at 29/06/2021.

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**F1** 2001 c. 16

**F2** 2001 c. 16

**Modifications etc. (not altering text)**

- C1** Art. 21 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. 21 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
- C3** Art. 21 applied by 1994 c. 33, s. 139(10B)(a) (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in operation) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), **Sch. 17 para. 4(9)**; S.I. 2018/227, art. 2(g))

**Extension of powers of seizure to computerised information**

**22.**—(1) Every power of seizure which is conferred by a statutory provision to which this Article applies on a constable who has entered premises in the exercise of a power conferred by a statutory provision shall be construed as including a power to require any information<sup>F3</sup> stored in any electronic form] and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible<sup>F4</sup> or from which it can readily be produced in a visible and legible form].

(2) This Article applies—

- (a) to any statutory provision passed or made before the making of this Order;
- (b) to Articles 10 and 20;
- (c) to paragraph 10 of Schedule 1; and
- (d) to any statutory provision passed or made after the making of this Order.

**F3** 2001 c. 16

**F4** 2001 c. 16

**Modifications etc. (not altering text)**

- C4** Art. 22 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
- C5** Art. 22 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

**Access and copying**

**23.**—(1) A constable who seizes anything in the exercise of a power conferred by any statutory provision, including a statutory provision passed or made after the making of this Order, shall, if so requested by a person showing himself—

- (a) to be the occupier of premises on which it was seized; or
- (b) to have had custody or control of it immediately before the seizure,

provide that person with a record of what he seized.

(2) The constable shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to paragraph (8), if a request for permission to be granted access to anything which—

- (a) has been seized by a constable; and

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(b) is retained by the police for the purpose of investigating an offence, is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of a constable.

(4) Subject to paragraph (8), if a request for a photograph or copy of any such thing is made to the officer in charge of the investigation by a person who had custody or control of the thing immediately before it was so seized, or by someone acting on behalf of such a person, the officer shall—

- (a) allow the person who made the request access to it under the supervision of a constable for the purpose of photographing or copying it; or
- (b) photograph or copy it, or cause it to be photographed or copied.

(5) A constable may also photograph or copy, or have photographed or copied, anything which he has power to seize, without a request being made under paragraph (4).

(6) Where anything is photographed or copied under paragraph (4)(b), the photograph or copy shall be supplied to the person who made the request.

(7) The photograph or copy shall be so supplied within a reasonable time from the making of the request.

(8) There is no duty under this Article to grant access to, or to supply a photograph or copy of, anything if the officer in charge of the investigation for the purposes of which it was seized has reasonable grounds for believing that to do so would prejudice—

- (a) that investigation;
- (b) the investigation of an offence other than the offence for the purposes of investigating which the thing was seized; or
- (c) any criminal proceedings which may be brought as a result of—
  - (i) the investigation of which he is in charge; or
  - (ii) any such investigation as is mentioned in sub#paragraph (b).

[<sup>F5</sup>(9) The reference to a constable in paragraphs (1), (2), (3)(a) and (5) include a person authorised under Article 18(2) to accompany a constable executing a warrant.]

**F5** Art. 23(9) added (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), **13(2)**

**Modifications etc. (not altering text)**

**C6** Art. 23 applied (31.3.2008) by UK Borders Act 2007 (c. 30), **ss. 46(5), 59(2)**; S.I. 2008/309, **art. 3(b)**

**C7** Art. 23 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

**C8** Art. 23 excluded (1.12.2007) by Police and Criminal Evidence (Application to Revenue and Customs) Order (Northern Ireland) 2007 (S.R. 2007/464), **art. 5(3)**

**C9** Art. 23 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

**C10** Art. 23 applied with modification(s) (1.3.2016) by The Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence (Northern Ireland) Order 1989) Order (Northern Ireland) 2016 (S.R. 2016/33), arts. 1(1), **4(1)**

**C11** Art. 23 applied by 2007 c. 30, s. 46B(3) (as inserted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), **ss. 160, 183(1)(5)(e)**)

**C12** Arts. 23, 24 applied by 1994 c. 33, **s. 139(10B)(b)** (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in operation) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 17 para. 4(9)**; S.I. 2018/227, **art. 2(g)**)

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- C13** Art. 23 modified (31.7.2017) by [The Criminal Justice \(European Investigation Order\) Regulations 2017 \(S.I. 2017/730\)](#), regs. 1(1), **39(11)** (with reg. 3)
- C14** Art. 23 applied (with modifications) (8.3.2018) by [The United Nations \(International Residual Mechanism for Criminal Tribunals\) Order 2018 \(S.I. 2018/187\)](#), arts. 1(1), **21(4)(5)** (with art. 3)

## Retention

**24.**—(1) Subject to paragraph (4), anything which has been seized by a constable or taken away by a constable following a requirement made by virtue of Article 21 or 22 may be retained so long as is necessary in all the circumstances.

(2) Without prejudice to the generality of paragraph (1)—

- (a) anything seized for the purposes of a criminal investigation may be retained, except as provided by paragraph (4)—
- (i) for use as evidence at a trial for an offence; or
  - (ii) for forensic examination or for investigation in connection with an offence; and
- (b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.

(3) Nothing seized on the ground that it may be used—

- (a) to cause physical injury to any person;
- (b) to damage property;
- (c) to interfere with evidence; or
- (d) to assist in escape from police detention or lawful custody,

may be retained when the person from whom it was seized is no longer in police detention or the custody of a court or is in the custody of a court but has been released on bail.

(4) Nothing may be retained for either of the purposes mentioned in paragraph (2)(a) if a photograph or copy would be sufficient for that purpose.

(5) Nothing in this Article affects any power of a court to make an order under<sup>[F6]</sup> section 31 of the Police (Northern Ireland) Act 1998]

<sup>[F7]</sup>(6) This Article also applies to anything retained by the police under section 28H(5) of the Immigration Act 1971.]

<sup>[F8]</sup>(7) The reference in paragraph (1) to anything seized by a constable includes anything seized by a person authorised under Article 18(2) to accompany a constable executing a warrant.]

- F6** 1998 c. 32
- F7** 1999 c. 33
- F8** Art. 24(7) added (1.3.2007) by [Police and Criminal Evidence \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/288 \(N.I. 2\)\)](#), arts. 1(2), **14(2)**

## Modifications etc. (not altering text)

- C12** Arts. 23, 24 applied by [1994 c. 33, s. 139\(10B\)\(b\)](#) (as inserted (31.1.2017 for specified purposes, 1.3.2018 in so far as not already in operation) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 17 para. 4\(9\)](#); S.I. 2018/227, [art. 2\(g\)](#))
- C15** Art. 24 applied with modification(s) (1.3.2016) by [The Proceeds of Crime Act 2002 \(Application of Police and Criminal Evidence \(Northern Ireland\) Order 1989\) Order \(Northern Ireland\) 2016 \(S.R. 2016/33\)](#), arts. 1(1), **5(1)**

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- C16** Art. 24 applied (with modifications) (8.3.2018) by The United Nations (International Residual Mechanism for Criminal Tribunals) Order 2018 (S.I. 2018/187), arts. 1(1), **21(4)(5)** (with art. 3)
- C17** Art. 24(1)-(4) 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
- C18** Art. 24(1)-(4) 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
- C19** Art. 24(1)-(4) applied (29.4.2021 for specified purposes, 29.6.2021 in so far as not already in force) by Air Traffic Management and Unmanned Aircraft Act 2021 (c. 12), s. 21(1)(a), **Sch. 8 para. 4(3)**; S.I. 2021/748, **reg. 2(k)**
- C20** Art. 24(7) applied (29.4.2021 for specified purposes, 29.6.2021 in so far as not already in force) by Air Traffic Management and Unmanned Aircraft Act 2021 (c. 12), s. 21(1)(a), **Sch. 8 para. 4(3)**; S.I. 2021/748, **reg. 2(k)**
- C21** Art. 24(7) applied (with modifications) by Police and Criminal Evidence (Application to Revenue and Customs) Order (Northern Ireland) 2007 (S.R. 2007/464), Sch. 1 (as amended (19.3.2010) by Police and Criminal Evidence (Application to Revenue and Customs) Order (Northern Ireland) 2007 (Amendment) Order 2010 (S.R. 2010/42), **art. 2(3)(b)**)

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