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## STATUTORY INSTRUMENTS

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# 1989 No. 1341

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

### PART XI

#### MISCELLANEOUS AND SUPPLEMENTARY

#### Application of Order to Customs and Excise

85.—(1) Subject to Article 89, the Treasury may by order direct—

- (a) that any provision of this Order which relates to investigations of offences conducted by police officers or to persons detained by the police shall apply, subject to such modifications as the order may specify, to investigations conducted by officers of Customs and Excise of offences which relate to assigned matters, as defined in section 1 of the Customs and Excise Management Act 1979<sup>F1</sup>, or to persons detained by officers of Customs and Excise; and
- (b) that, in relation to investigations of offences conducted by officers of Customs and Excise—
  - (i) this Order shall have effect as if the following Article were inserted after Article 16—

#### “Exception for Customs and Excise

**16A.** Material in the possession of a person who acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office and which relates to an assigned matter, as defined in section 1 of the Customs and Excise Management Act 1979, is neither excluded material nor special procedure material for the purposes of any statutory provision such as is mentioned in Article 11(2).”

; and

- (ii) Article 56 shall have effect as if it related only to things such as are mentioned in paragraph (1)(a) of that Article.

(2) Nothing in any order under paragraph (1) shall be taken to limit any powers exercisable under section 164 of the Customs and Excise Management Act 1979<sup>F1</sup>.

*Para. (3) rep. by 2005 c. 11*

**F1** 1979 c. 2

**Status:** Point in time view as at 08/02/2007.

**Changes to legislation:** The Police and Criminal Evidence (Northern Ireland) Order 1989, PART XI is up to date with all changes known to be in force on or before 06 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)

## Meaning of “serious arrestable offence”

**87.**—(1) This Article has effect for determining whether an offence is a serious arrestable offence for the purposes of this Order.

(2) The following arrestable offences are always serious—

(a) an offence (whether at common law or under any statutory provision) specified in Part I of Schedule 5; and

[<sup>F2</sup>(aa) any offence which is specified in paragraph 1 of Schedule 5 to the Proceeds of Crime Act 2002 (drug trafficking offences);

(ab) any offence under section 327, 328 or 329 of that Act (certain money laundering offences);]

(b) an offence under a statutory provision specified in Part II of that Schedule.

(3) Subject to <sup>F3</sup> paragraphs (4) and (5), any other arrestable offence is serious only if its commission—

(a) has led to any of the consequences specified in paragraph (6); or

(b) is intended or is likely to lead to any of those consequences.

(4) An arrestable offence which consists of making a threat is serious if carrying out the threat would be likely to lead to any of the consequences specified in paragraph (6).

<sup>F4</sup>(5) A person arrested under section 14(1)(b) of the Prevention of Terrorism (Temporary Provisions) Act 1989<sup>F5</sup> is to be treated for the purposes of Articles 62 and 63 as having been arrested on suspicion of involvement in a serious arrestable offence, and any reference in those Articles to such an offence includes a reference to being or having been concerned in the commission, preparation or instigation of acts of terrorism to which Part IV of that Act applies.

(6) The consequences mentioned in paragraphs (3) and (4) are—

(a) serious harm to the safety of the United Kingdom, or any part of it, or to public order;

(b) serious interference with the administration of justice or with the investigation of offences or of a particular offence;

(c) the death of any person;

(d) serious injury to any person;

(e) substantial financial gain to any person; and

(f) serious financial loss to any person.

(7) Loss is serious for the purposes of this Article if, having regard to all the circumstances, it is serious for the person who suffers it.

(8) In this Article “injury” includes any disease and any impairment of a person's physical or mental condition.

**F2** 2002 c. 29

**F3** prosp. subst. by 1995 NI 17

**F4** prosp. rep. by 1995 NI 17

**F5** 1989 c. 4

## Power of constable to use reasonable force

**88.** Where any provision of this Order—

(a) confers a power on a constable; and

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(b) does not provide that the power may only be exercised with the consent of some person, other than a police officer,

the constable may use reasonable force, if necessary, in the exercise of the power.

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

**C1** Art. 88 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

**Orders and regulations**

**89.** Orders made under Articles<sup>F6</sup> 60<sup>F7</sup>, 60A], 66, 81 and 85(1) and regulations made under Article 29(4) shall be subject to annulment in pursuance of a resolution of either House of Parliament and section 5 of the Statutory Instruments Act 1946<sup>F8</sup> shall apply accordingly.

**F6** prosp. insertion by [2003 c. 6](#)

**F7** [2000 c. 32](#)

**F8** [1946 c. 36](#)

**Amendments and repeals**

**90.**—(1) The statutory provisions mentioned in Schedule 6 shall have effect with the amendments there specified.

(2) The statutory provisions mentioned in Schedule 7 (which include enactments already obsolete or unnecessary) are repealed to the extent specified in the third column of that Schedule.

(3) The repeals in Part II of Schedule 7 have effect only in relation to criminal proceedings.

**Status:**

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