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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

[<sup>F1</sup>Application of Order to Revenue and Customs]

**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 [<sup>F2</sup>investigations conducted by officers of Revenue and Customs] or to [<sup>F3</sup>persons detained by officers of Revenue and Customs;] and
- (b) that, in relation to [<sup>F4</sup>investigations of offences conducted by officers of Revenue and Customs]—
  - (i) this Order shall have effect as if the following [<sup>F5</sup>Articles] were inserted after Article 16—

“**Exception for** [<sup>F6</sup>Revenue and Customs]

**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 [<sup>F7</sup>and which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions,] is neither excluded material nor special procedure material for the purposes of any statutory provision such as is mentioned in Article 11(2).

[<sup>F8</sup>**Revenue and Customs: restriction on other powers to apply for production of documents**

**16B.**—(1) An officer of Revenue and Customs may make an application for the delivery of, or access to, documents under a provision specified in paragraph (3) only if the condition in paragraph (2) is satisfied.

(2) The condition is that the officer thinks that an application under Schedule 1 would not succeed because the material required does not consist of or include special procedure material.

(3) The provisions are—

- (a) section 20BA of, and Schedule 1AA to, the Taxes Management Act 1970 (serious tax fraud);

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- (b) paragraph 11 of Schedule 11 to the Value Added Tax Act 1994 (VAT);
- (c) paragraph 4A of Schedule 7 to the Finance Act 1994 (insurance premium tax);
- (d) paragraph 7 of Schedule 5 to the Finance Act 1996 (landfill tax);
- (e) paragraph 131 of Schedule 6 to the Finance Act 2000 (climate change levy);
- (f) paragraph 8 of Schedule 7 to the Finance Act 2001 (aggregates levy);
- (g) Part 6 of Schedule 13 to the Finance Act 2003 (stamp duty land tax)."

; 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.

[ that where an officer of Revenue and Customs searches premises in reliance on a warrant <sup>F9</sup>(c) under Article 10 of, or paragraph 9 of Schedule 1 to, this Order (as applied by an order under this paragraph) the officer shall have the power to search persons found on the premises—

- (i) in such cases and circumstances as are specified in the order, and
- (ii) subject to any conditions specified in the order; and

- (d) that powers and functions conferred by a provision of this Order (as applied by an order under this paragraph) may be exercised only by officers of Revenue and Customs acting with the authority (which may be general or specific) of the Commissioners for Her Majesty's Revenue and Customs.]

[  
<sup>F10</sup>(1A) A certificate of the Commissioners that an officer of Revenue and Customs had authority under paragraph (1)(d) to exercise a power or function conferred by a provision of this Order shall be conclusive evidence of that fact.]

[<sup>F11</sup>(2) An order under paragraph (1)—

- (a) may, in modifying a provision, in particular impose conditions on the exercise of a function, and
- (b) shall not be taken to limit a power under section 164 of the Customs and Excise Management Act 1979.]

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

**F1** Art. 85: heading substituted (8.11.2007) by virtue of Finance Act 2007 (c. 11), ss. **83(10)**, 84(5); S.I. 2007/3166, art. **2(b)**

**F2** Words in art. 85(1)(a) substituted (8.11.2007) by Finance Act 2007 (c. 11), ss. **83(2)(a)**, 84(5); S.I. 2007/3166, art. **2(b)**

**F3** Words in art. 85(1)(a) substituted (8.11.2007) by Finance Act 2007 (c. 11), ss. **83(2)(b)**, 84(5); S.I. 2007/3166, art. **2(b)**

**F4** Words in art. 85(1)(b) substituted (8.11.2007) by Finance Act 2007 (c. 11), ss. **83(3)**, 84(5); S.I. 2007/3166, art. **2(b)**

**F5** Word in art. 85(1)(b)(i) substituted (8.11.2007) by virtue of Finance Act 2007 (c. 11), ss. **83(4)**, 84(5); S.I. 2007/3166, art. **2(b)**

**F6** Words in art. 85(1)(b)(i) substituted (8.11.2007) by Finance Act 2007 (c. 11), ss. **83(5)(b)**, 84(5); S.I. 2007/3166, art. **2(b)**

**F7** Words in art. 85(1)(b)(i) substituted (8.11.2007) by Finance Act 2007 (c. 11), ss. **83(5)(a)**, 84(5); S.I. 2007/3166, art. **2(b)**

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- F8** Words in art. 85(1)(b)(i) inserted (8.11.2007) by Finance Act 2007 (c. 11), **ss. 83(6)**, 84(5); S.I. 2007/3166, **art. 2(b)**
- F9** Art. 85(1)(c)(d) inserted (8.11.2007) by Finance Act 2007 (c. 11), **ss. 83(7)**, 84(5); S.I. 2007/3166, **art. 2(b)**
- F10** Art. 85(1A) inserted (8.11.2007) by Finance Act 2007 (c. 11), **ss. 83(8)**, 84(5); S.I. 2007/3166, **art. 2(b)**
- F11** Art. 85(2) substituted (8.11.2007) by Finance Act 2007 (c. 11), **ss. 83(9)**, 84(5); S.I. 2007/3166, **art. 2(b)**

*Article 86—Amendments*

**Meaning of “serious arrestable offence”**

**87.** <sup>F12</sup> .....

- F12** Art. 87 repealed (1.3.2007) by Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)), arts. 1(2), 41(2), **Sch. 2**

**Power of constable to use reasonable force**

- 88.** Where any provision of this Order—
- (a) confers a power on a constable; and
  - (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.**—<sup>F13</sup>(1) Orders made [<sup>F14</sup>by the Secretary of State] under [<sup>F15</sup>Article [<sup>F16</sup>53A or] 85(1)] 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>F17</sup> shall apply accordingly.

[<sup>F18</sup>(2) Orders made by the Department of Justice under Article 53, [<sup>F19</sup>53A,] 60, 60A [<sup>F20</sup>, 66 or 81] shall be subject to negative resolution.

(3) Regulations made by the Department of Justice under Article 29(4) or 46A shall be subject to negative resolution.]

- F13** Art. 89 renumbered (12.4.2010) as art. 89(1) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 13(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F14** Words in art. 89(1) inserted by 2010 c. 17 s. 13(2)(a)(i) (as substituted) (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **22(2)(b)** (with arts. 24-28)

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- F15** Words in art. 89(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 13(4)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F16** Words in art. 89(1) inserted (1.6.2021 for specified purposes) by Crime and Security Act 2010 (c. 17), **ss. 13(2), 59(1)** (as substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **22(2)(b)** (with arts. 24-28)); S.R. 2021/135, **art. 2**; S.I. 2021/621, **art. 2**
- F17** 1946 c. 36
- F18** Art. 89(2)(3) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 13(5)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F19** Word in art. 89(2) inserted by 2010 c. 17 s. 13(2)(b)(i) (as substituted) (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **22(2)(b)** (with arts. 24-28)
- F20** Words in art. 89(2) inserted (1.6.2021 for specified purposes) by Crime and Security Act 2010 (c. 17), **ss. 13(2), 59(1)** (as substituted (18.10.2012) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), **22(2)(b)** (with arts. 24-28)); S.R. 2021/135, **art. 2**; S.I. 2021/621, **art. 2**

### 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.

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