

2007 No. 464

REVENUE AND CUSTOMS

The Police and Criminal Evidence (Application to Revenue and Customs) Order (Northern Ireland) 2007

<i>Made</i>	- - - -	<i>8th November 2007</i>
<i>Laid before Parliament</i>		<i>9th November 2007</i>
<i>Coming into force</i>	- -	<i>1st December 2007</i>

The Treasury make the following Order in exercise of the powers conferred by Article 85 (1) and (2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (a):

Citation and commencement

1. This Order may be cited as the Police and Criminal Evidence (Application to Revenue and Customs) Order (Northern Ireland) 2007 and shall come into force on 1st December 2007.

Interpretation

2.—(1) In this Order—

“the 1989 Order” means the Police and Criminal Evidence (Northern Ireland) Order 1989;

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“the customs and excise Acts” has the meaning given to it by section 1 of the Customs and Excise Management Act 1979(b);

“former Inland Revenue matter” means a matter specified in section 54(4) (b) or (f) of, or in paragraphs 3, 7, 10, 13 to 15, 19 or 24 to 29 of Schedule 1 to, the Commissioners for Revenue and Customs Act 2005(c).

“office of Revenue and Customs” means premises wholly or partly occupied by Her Majesty’s Revenue and Customs;

“relevant indictable offence” means an indictable offence which relates to a matter in relation to which Her Majesty’s Revenue and Customs have functions apart from a former Inland Revenue matter.

“relevant investigation” means a criminal investigation conducted by officers of Revenue and Customs which relates to a matter in relation to which Her Majesty’s Revenue and Customs have functions apart from a former Inland Revenue matter.

(2) A person is in Revenue and Customs detention for the purpose of this Order if—

(a) S.I. 1989/1341 (N.I. 12). Article 85(3) of the 1989 Order was repealed by section 50(6) of, and paragraph 40 of Schedule 4 to, the Commissioners for Revenue and Customs Act 2005 (c.11). Article 85 was amended by section 83 of the Finance Act 2007 (c.11).

(b) 1979 c.2.

(c) 2005 c.11. Former Inland Revenue matters are listed in Schedule 1 to the 2005 Act. Paragraph 26 of Schedule 1 was amended by section 11 of, and paragraph 61 of Schedule 1 to, the Work and Families Act 2006(c.18).

- (a) he has been taken to an office of Revenue and Customs after being arrested for an offence; or
- (b) he is arrested at an office of Revenue and Customs after attending voluntarily at the office or accompanying an officer of Revenue and Customs to it,

and is detained there or detained elsewhere in the charge of an officer of Revenue and Customs, and nothing shall prevent a detained person from being transferred between Revenue and Customs detention and police detention.

Application

3.—(1) The provisions of the 1989 Order contained in Schedule 1 to this Order which relate to investigations of offences conducted by police officers or to persons detained by the police shall apply to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers.

This is subject to the modifications in paragraphs (2) and (3) and Articles 4 to 15 and Schedule 2,

(2) The 1989 Order shall have effect as if the words and phrases in Column 1 of Part 1 of Schedule 2 to this Order were replaced by the substituted words and phrases in Column 2 of that Part.

(3) Where in the 1989 Order any act or thing is to be done by a constable or police officer of a specified rank, that act or thing shall be done by an officer of Revenue and Customs of at least the grade specified in Column 2 of Part 2 of Schedule 2 to this Order, and the 1989 Order shall be construed accordingly.

Exceptions

4. Nothing in the application of the 1989 Order to Revenue and Customs shall confer on an officer of Revenue and Customs any power—

- (a) to charge a person with any offence;
- (b) to release a person on bail; or
- (c) to detain a person for an offence after he has been charged with that offence.

Seizure and retention of things found upon search

5.—(1) Where in the 1989 Order a constable is given power to seize and retain any thing found upon a lawful search of person or premises, an officer of Revenue and Customs shall have the same power notwithstanding that the thing found is not evidence of an offence which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions.

(2) Nothing in the application of the 1989 Order to Revenue and Customs prevents any thing lawfully seized by a person under any statutory provision from being accepted and retained by an officer of Revenue and Customs.

(3) Article 23 of the 1989 Order (access and copying)(a) shall not apply to any thing seized as liable to forfeiture under the customs and excise Acts.

(a) S.I. 1989/1341 (N.I. 12). Article 23(9) was inserted by Article 13(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).

Excluded and special procedure material

6. In its application by virtue of Article 3 above the 1989 Order shall have effect as if after Article 16 there were inserted—

“Exception for 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 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).”.

Restriction on other powers to apply for production of documents

7. In its application by virtue of Article 3 above the 1989 Order shall have effect as if the following Article were inserted after Article 16A—

“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 and Schedule 1AA of the Taxes Management Act 1970 (serious tax fraud)(a);
- (b) paragraph 11 of Schedule 11 to the Value Added Tax Act 1994 (VAT)(b);
- (c) paragraph 4A of Schedule 7 to the Finance Act 1994 (insurance premium tax)(c);
- (d) paragraph 7 of Schedule 5 to the Finance Act 1996 (landfill tax)(d);
- (e) paragraph 131 of Schedule 6 to the Finance Act 2000 (climate change levy)(e);
- (f) paragraph 8 of Schedule 7 to the Finance Act 2001 (aggregates levy)(f);
- (g) Part 6 of Schedule 13 to the Finance Act 2003 (stamp duty land tax)(g).”.

(a) 1970 c.9. Section 20BA and Schedule 1AA were inserted by section 149 of the Finance Act 2000 (c.17).

(b) 1994 c.23. Paragraph 11 is derived from Schedule 7 to the Value Added Tax Act 1983 (c.55).

(c) 1994 c.9. Paragraph 4A was inserted by section 34 of, and paragraph 8(1) of Schedule 5 to, the Finance Act 1995 (c.4). Paragraph 4A was amended by section 70 of, and paragraphs 13(1)(a), (1)(b) and (2)(g) of Part 2 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c.16).

(d) 1996 c.8. Paragraph 7 was amended by section 70 of, and paragraphs 13(1)(a), (1)(b) and (2)(h) of Part 2 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c.16).

(e) 2000 c.17. Paragraph 131 was amended by section 70 of, and paragraphs 13(1)(a), (1)(b) and (2)(i) of Part 2 of Schedule 2 to, the Criminal Justice and Police Act 2001 (c. 16).

(f) 2001 c.9.

(g) 2003 c.14.

Modification of Article 20 of the 1989 Order (entry and search after arrest)

8.—(1) Article 20 of the 1989 Order (entry and search after arrest)(a) is modified as follows.

(2) For paragraph (1) substitute—

“(1) Subject to the following provisions of this Article, an officer of Revenue and Customs may enter and search any premises occupied or controlled by a person who is under arrest for any relevant indictable offence if he has reasonable grounds for suspecting that there is on the premises evidence, other than items subject to legal privilege, that relates—

- (a) to that offence; or
- (b) to some other indictable offence which is connected with or similar to that offence.”.

Modification of Article 50 of the 1989 Order (Records of detention)

9.—(1) Article 50 of the 1989 Order (records of detention)(b) is modified as follows—

(2) For paragraph (1) substitute—

“(1) The Commissioners shall keep written records showing on an annual basis—

- (a) the numbers of persons kept in Revenue and Customs detention for more than 24 hours and subsequently released without charge;
- (b) .the number of applications for warrants of further detention and the results of the applications; and
- (c) in relation to each warrant of further detention—
 - (i) the period of further detention authorised by it;
 - (ii) the period which the person named in it spent in Revenue and Customs detention on its authority; and
 - (iii) whether he was charged or released without charge.”.

(3) For paragraph (2) substitute—

“(2) The annual report of the Commissioners shall contain information about the matters mentioned in paragraph (1) in respect of the period to which the report relates.”.

Modification of Article 56 of the 1989 Order (Intimate searches)

10.—(1) Article 56 of the 1989 Order (intimate searches)(c) shall have effect as if it related only to things as are mentioned in paragraph (1)(a) of that Article.

(2) The annual report of the Commissioners shall contain information about searches under Article 56 which have been carried out during the period to which the report relates.

Modification of Article 75 of the 1989 Order (confessions by mentally handicapped persons)

11. Article 75(3) of the 1989 Order (confessions by mentally handicapped persons)(d) shall be modified to the extent that the definition of “independent person” shall, in addition to the persons

(a) Article 20 of the 1989 Order was amended by Article 9 of, and paragraph 1 of Schedule 1 to, the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)).

(b) S.I. 1989/1341 (N.I. 12). Article 50 of the 1989 Order was amended by section 78 of, and paragraph 10 of Schedule 6 to, the Police (Northern Ireland) Act 2000 (c.32).

(c) Article 56 of the 1989 Order was amended by Article 26(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)). There are other amendments which are not relevant to this Order.

(d) Article 75(3) of the 1989 Order was amended by section 78 of, and paragraph 9 of Schedule 6 to, the Police (Northern Ireland) Act 2000 (c.32).

mentioned therein, also include an officer of Revenue and Customs or any other person acting under the authority of the Commissioners.

Use of reasonable force

- 12.** Where any provision of the 1989 Order as applied to Revenue and Customs—
- (a) confers a power on an officer of Revenue and Customs, and
 - (b) does not provide that the power may only be exercised with the consent of some person other than that officer,

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

Arrest without warrant

- 13.** Article 26 (2) of the 1989 Order (arrest without warrant: constables)(**a**) does not limit—
- (a) section 138(1) of the Customs and Excise Management Act 1979 (arrest of persons);
 - (b) section 20 and paragraph 4 of Schedule 3 to the Criminal Justice (International Co-operation) Act 1990; or
 - (c) any other enactment, including any enactment contained in subordinate legislation, for the time being in force which confers upon officers of Revenue and Customs the power to arrest or detain persons.

Search of persons when warrant executed

14. Where an officer of Revenue and Customs searches premises under the authority of a warrant under Article 10 of, or paragraph 9 of Schedule 1 to, the 1989 Order(**b**), he may search any person found on the premises—

- (a) where he has reasonable cause to believe that person to be in possession of material which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence;
- (b) but no person should be searched except by a person of the same sex.

Authorisation

15. Powers and functions in the provisions of the 1989 Order contained in Schedule 1 to this Order may be exercised only by officers of Revenue and Customs acting with the authority (which may be general or specific) of the Commissioners.

(a) S.I. 1989/1341 (N.I. 12). Article 26 was amended by Article 15 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).

(b) Article 10 of the 1989 Order was amended by Article 7 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)). There are other amendments to Article 10 which are not relevant to this Order. Paragraph 1 of Schedule 9 to the 1989 Order was amended by Article 8 of the 2007 Order (S.I. 2007/288 (N.I. 2)).

Revocation

16. The following instruments are revoked—

- (a) the Police and Criminal Evidence (Application to Customs and Excise) Order (Northern Ireland) 1989(a);
- (b) the Police and Criminal Evidence (Application to Customs and Excise) (Amendment) Order (Northern Ireland) 1995(b); and
- (c) the Police and Criminal Evidence (Application to Customs and Excise) (Amendment) Order (Northern Ireland) 1996(c).

Dave Watts
Steve McCabe

8th November 2007

Two of the Lord's Commissioners of Her Majesty's Treasury

(a) S.R. 1989/465
(b) S.R. 1995/456
(c) S.R. 1996/292

Provisions of the 1989 Order applied to Revenue and Customs

- Article 10 (power of justice of the peace to authorise entry and search of premises)(a)
- Article 11(1) and (2) (special provisions as to access) and Schedule 1 (special procedure)(b)
- Article 17 (search warrants-safeguards)(c)
- Article 18 (execution of warrants)(d)
- Article 19(1) (b), (2), (3) (entry for purpose of arrest etc.)(e)
- Article 20(1) to (8) (entry and search after arrest) (subject to the modification in Article 8)(f)
- Article 21 (general power of seizure etc.)(g)
- Article 22 (extension of powers of seizure to computerised information)(h)
- Article 23 (access and copying) (subject to the modification in Article 5)(i)
- Article 24 (1) to (4) (retention)
- Article 26 (2) (arrest without warrant: constables) (subject to the modifications in Article 13)(j)
- Article 30 (information to be given on arrest)(k)
- Article 31 (voluntary attendance at police station etc.)(l)
- Article 32 (1) to (4)(a) and (5) to (14) (arrest elsewhere than at police station)(m)
- Article 33 (arrest for further offence)
- Article 34 (1) to (9) (search upon arrest) (subject to the modifications in Article 5)(n)

-
- (a) S.I. 1989/1341 (N.I. 12). Article 10 was amended by Article 7 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)). There are other amendments to Article 10 which are not relevant to this Order.
 - (b) Schedule 1 to the 1989 Order was amended by paragraph 14 of Schedule 2 to the Criminal Justice and Police Act 2001 (c.16) and Article 8 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
 - (c) Article 17 of the 1989 Order was amended by Article 9 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
 - (d) Article 18 of the 1989 Order was amended by Article 10 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
 - (e) Article 19(1)(b) of the 1989 Order was amended by Article 11(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
 - (f) Article 20 of the 1989 Order was amended by paragraph 1 of Schedule 1 to the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)) and Article 12 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
 - (g) Article 21 of the 1989 Order was amended by paragraph 13 of Schedule 2 to the Criminal Justice and Police Act 2001 (c.16).
 - (h) Article 22 of the 1989 Order was amended by paragraph 13 of Schedule 2 to the Criminal Justice and Police Act 2001 (c.16).
 - (i) Article 23 of the 1989 Order was amended by Article 13 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
 - (j) Article 26 was amended by Article 15 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
 - (k) Article 30 of the 1989 Order was amended by paragraph 8(6) of Schedule 15 to the Terrorism Act 2000 (c.11).
 - (l) Article 31 was amended by Article 3(2) of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)).
 - (m) Article 32 of the 1989 Order was amended by Article 4(1) of the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)).
 - (n) Article 34 of the 1989 Order was amended by Article 5(1) of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)) and Article 17(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).

Article 35 (1) to (6) (limitations on police detention)(a)

Article 36 (designated police stations)(b)

Article 37 (custody officers at police stations), except paragraph (6)(d)(c)

Article 38 (1) to (10) and the definition of “endorsed for bail” in paragraph (14) (duties of custody officer before charge)(d)

Article 40 (responsibilities in relation to persons detained)(e)

Article 41 (review of police detention)(f)

Article 42 (limits on period of detention without charge)(g)

Article 43 (authorisation of continued detention)(h)

Article 44 (warrants of further detention)(i)

Article 45 (extension of warrants of further detention)

Article 50 (records of detention)(j)

Article 51(d) (savings)

Article 52 (children)(k)

Article 55 (searches of detained persons)(l)

Article 56 (intimate searches) (subject to the modifications in Articles 5 and 10)(m)

-
- (a) Article 35 of the 1989 Order was amended by Article 3(2) of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)).
- (b) S.I. 1989/1341 (N.I. 12). Article 36 of the 1989 Order was amended by paragraph 3 of Schedule 1 to the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)).
- (c) Article 37 of the 1989 Order was amended by paragraph 4 of Schedule 1 to the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)) and Article 6(2) of, and paragraph 1 of Schedule 4 to, the Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)).
- (d) Article 38 of the 1989 Order. Article 38(1) was amended by Article 7(3)(a) of, and repealed in part by Article 32(1) of, and Schedule 1 to, the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)). Article 38 (13) was repealed in part by Article 65(2) of, and Schedule 6 to, the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)). Article 38(14) was amended by Article 18(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (e) Article 40 of the 1989 Order was amended by Article 6(2) of, and paragraph 2 of Schedule 4 to, the Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)).
- (f) Article 41 of the 1989 Order was amended by Article 19 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (g) Article 42 of the 1989 Order was amended by Article 3(4) and 7(3) of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)) and Article 9 of, and paragraph 5 of Schedule 1 to, the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)).
- (h) Article 43 of the 1989 Order was amended by Article 7(3) of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)); Article 5 of the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)) and Article 21(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (i) Article 44 of the 1989 Order was amended by Article 7(3) of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)) and Article 22(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (j) Article 50 of the 1989 Order was amended by section 74 of, and paragraph 18(4) of Schedule 4 to, the Police (Northern Ireland) Act 1998 (c.32) and section 78 of, and paragraph 10(3) of Schedule 6 to, the Police (Northern Ireland) Act 2000 (c.32).
- (k) Article 52 of the 1989 Order was amended by Article 65(1) of, and paragraph 35 of Schedule 5 to, the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)).
- (l) Article 55 of the 1989 Order was amended by Article 6 of the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)).
- (m) Article 56 of the 1989 Order was amended by section 74 of, and paragraph 18(5) of Schedule 4 to, the Police (Northern Ireland) Act 1998 (c.32); section 78 of, and paragraph 10(3) of Schedule 6 to, the Police (Northern Ireland) Act 2000 (c.32); section 41(1) of the Police (Northern Ireland) Act 2003 (c.6); section 4 of the Drugs Act 2005 (c.17); Article 4 of, and paragraph 2 of Schedule 2 to, the Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)); Article 6 of, and paragraph 5 of Schedule 4 to, the 2007 Order (S.I. 2007/912 (N.I. 6)) and Article 26(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).

Article 57(1) to (9) (right to have someone informed when arrested)(a)

Article 59 (1) to (11) (access to legal advice)(b)

Article 62(1) to (9) (intimate samples)(c)

Article 63 (other samples)(d)

Article 64 (1) to (7) (destruction of fingerprints and samples)(e)

Article 65 (codes of practice)(f)

Article 66 (codes of practice-supplementary)(g)

Article 75 (confessions by mentally handicapped persons)(h)

Article 84 (police officers performing duties rank)(i)

-
- (a) Article 57 of the 1989 Order was amended by Article 37(3) of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (S.I. 1990/2588 (N.I. 17)); Article 57(1) of, and paragraph 11 of Schedule 3 to, the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9)); section 456 of, and paragraph 19(2) of Schedule 11 to, the Proceeds of Crime Act 2002 (c.29) and Article 27 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (b) S.I. 1989/1341 (N.I. 12). Article 59 of the 1989 Order was amended by Article 37(4) of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (S.I. 1990/2588 (N.I. 17)); Article 57(1) of, and paragraph 12 of Schedule 3 to, the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9)); section 456 of, and paragraph 19(3) of Schedule 11 to, the Proceeds of Crime Act 2002 (c.29) and Article 28 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (c) Article 62 of the 1989 Order was amended by Article 10 of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)); section 42(2) of the Police (Northern Ireland) Act 2003 (c.6) and Article 32 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (d) Article 63 of the 1989 Order was amended by Article 3(2) of the Criminal Justice (Northern Ireland) Order 1991 (S.I. 1991/1711 (N.I. 16)); Article 11 of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)); section 125 of, and paragraph 13 of Schedule 15 to, the Terrorism Act 2000 (c.11); section 32 of, and paragraph 5 of Schedule 3 to, the Police (Northern Ireland) Act 2003 (c.6); section 170(4) of the Extradition Act 2003 (c.41); Article 8 of the Criminal Justice (Northern Ireland) Order 2004 (S.I. 2004/1500 (N.I. 9)) and Article 33 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (e) Article 64 was amended by Article 13 of the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)); sections 83 and 137 of, and Part 2 of Schedule 7 to, the Criminal Justice and Police Act 2001 (c.16) and Article 35 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (f) Article 65 of the 1989 Order was amended by Article 37 of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (g) Article 66(7) of the 1989 Order was repealed by Article 32 of, and Schedule 2 to, the Police (Amendment) (Northern Ireland) Order 1995 (S.I. 1995/2993 (N.I. 17)). Article 66(12) was revoked by section 125 of, and Schedule 16 to, the Terrorism Act 2000 (c.11). Article 66 has also been amended by section 35 of, and paragraph 110 of Schedule 1 to, the Armed Forces Act 1996 (c.46); section 72(3) of the Police (Northern Ireland) Act 2000 (c.32); section 38 of, and Part 1 of Schedule 7 to, the Armed Forces Act 2001 (c.19); section 32 of, and paragraph 7 of Schedule 3 to, the Police (Northern Ireland) Act 2003 (c.6) and Article 7(9) of the Policing (Miscellaneous Provisions) (Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6)).
- (h) Article 75 of the 1989 Order was amended by section 78 of, and paragraph 10(5) of Schedule 6 to, the Police (Northern Ireland) Act 2000 (c.32); section 331 of, and paragraph 61 of Schedule 36 to, the Criminal Justice Act 2003 (c.44) and Article 38(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).
- (i) Article 84 of the 1989 Order was amended by section 74 of, and paragraph 18(6) of Schedule 4 to, the Police (Northern Ireland) Act 1998 (c.32) and Article 39(2) of the Police and Criminal Evidence (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/288 (N.I. 2)).

SCHEDULE 2

Article 3(2)

PART 1

Substitution of equivalent words and phrases in the 1989 Order.

Where in the 1989 Order a word or phrase specified in Column 1 is used, in the application of the 1989 Order to Revenue and Customs, there shall be substituted the equivalent word or phrase in column 2—

<i>Column 1</i>	<i>Column 2</i>
<i>Words and phrases used in the 1989 Order</i>	<i>Substituted words and phrases</i>
Chief Constable (except where the term appears in Articles 64(5) and (7))	Director of Detection (except in Article 50 where there shall be substituted the Commissioners for Her Majesty's Revenue and Customs)
Chief Constable where the term appears in Articles 64(5) and (7)	Director of Risk and Intelligence
Constable	officer of Revenue and Customs
designated police station	designated office of Revenue and Customs
police detention (except in Article 2 and Article 40 (1)(a) the second time the words occur)	Revenue and Customs detention
police officer	officer of Revenue and Customs
police station	office of Revenue and Customs
rank	Grade
station	office of Revenue and Customs
the police	Her Majesty's Revenue and Customs

PART 2

Equivalent grades of officers of Revenue and Customs

Where in the 1989 Order an act or thing is to be done by a constable or police officer of the rank specified in Column 1, that same act or thing shall, in the application of the 1989 Order to Revenue and Customs, be done by an officer of Revenue and Customs of at least an equivalent grade specified in Column 2—

<i>Column 1</i>	<i>Column 2</i>
Rank of constable or police officer	Grade of officer of Revenue and Customs
Sergeant	Officer
Inspector	Higher officer
Chief Inspector	Higher officer
Superintendent	Senior officer
Chief Superintendent	Senior officer

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies certain provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989, subject to specified modifications, to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers. A relevant investigation is a criminal investigation conducted by officers of Revenue and Customs which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions apart from certain specified former Inland Revenue matters.

Article 3 of the Order applies the provisions of the 1989 Order contained in Schedule 1, subject to specified modifications, to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers. Schedule 2 to the Order substitutes terms applicable to Revenue and Customs for certain words and phrases in the 1989 Order and sets out equivalent Revenue and Customs grades for specified ranks of constable or police officer.

Article 4 ensures that officers of Revenue and Customs do not have powers to charge a person, release a person on bail or to detain a person after charge.

Article 5(1) permits officers of Revenue and Customs to retain things found during a lawful search notwithstanding that the thing found is not evidence of an offence which relates to a matter in relation to which Her Majesty's Revenue and Customs have functions. Article 5(2) ensures that nothing in the application of the 1989 Order to Revenue and Customs shall be construed to prevent any thing lawfully seized by a person under any statutory provision from being accepted and retained by an officer. Article 5(3) provides that the provisions in the 1989 Order on access and copying shall not apply to any thing seized as liable to forfeiture under the customs and excise Acts.

Article 6 inserts Article 16A into the 1989 Order which provides that material acquired or created in the course of a trade or business is not excluded or special procedure material for the purposes of any statutory provision mentioned in Article 11(2) of the 1989 Order.

Article 7 inserts Article 16B into the 1989 Order which restricts the use of powers to apply for the production of documents under other enactments. An officer of Revenue and Customs may only use those other powers if he thinks that an application under Schedule 1 of the 1989 Order would not succeed because the material required does not consist of or include special procedure material.

Article 8 modifies Article 20 (1) of the 1989 Order to restrict the power of entry and search after arrest to relevant indictable offences.

Article 9 modifies Article 50 of the 1989 Order substituting the Commissioners for the Chief Constable.

Article 10 modifies Article 56 of the 1989 Order (intimate searches) so that it has effect as if it related only to items which might cause injury.

Article 11 modifies Article 75(3) of the 1989 Order (confessions by mentally handicapped persons) by expanding the definition of "independent person" to include an officer of Revenue and Customs or any other person acting under the authority of the Commissioners for Her Majesty's Revenue and Customs.

Article 12 provides that where any provision of the 1989 Order applied to Revenue and Customs confers a power on an officer of Revenue and Customs (and does not provide that the power may only be exercised with the consent of some person other than the officer) the officer may use reasonable force in the exercise of the power.

Article 13 modifies Article 26 (2) of the 1989 Order (Arrest without warrant: constables) so that it does not limit other enactments which confer upon officers of Revenue and Customs the power to arrest or detain persons.

Article 14 provides that an officer of Revenue and Customs searching premises under the authority of a warrant under Article 10 of, or paragraph 11 of Schedule 1 to the 1989 Order, may search persons found on the premises where he has reasonable cause to believe that person to be in possession of material likely to be of substantial value to the investigation of the offence. The power must be exercised by a person of the same sex as the person being searched.

Article 15 provides that powers and functions in the provisions of the 1989 Order applied to Revenue and Customs by the Order may only be exercised by officers of Revenue and Customs who are authorised to do so by the Commissioners.

Article 16 provides for the revocation of earlier instruments.

© Crown Copyright 2007

Published and printed in the UK by The
Stationery Office Limited
under the authority and
superintendence of Carol
Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly
Dd. N3429. C1. 11/07. Gp. 130. 14567.
£3.00