

# **POLICE (NORTHERN IRELAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **INFORMATION AND INQUIRIES**

#### **Part 1: Investigating Officers**

83. This Part includes a range of powers which may be needed to support the work of civilian investigating officers in specialist areas such as financial and information technology crime. They are mainly linked to entry, search and seizure, and include powers to obtain and exercise search warrants, to seize evidence and to apply to a judge for access to confidential material. Part 1 also covers powers to enter and search premises following arrest. This set of powers is particularly relevant to the work of Scenes of Crime Officers, many of whom are already civilians.
84. *Paragraphs 1 and 2* enable a suitably designated person to apply for and be granted search warrants under section 42 of the Terrorism Act and under Article 10 of the *Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))* (“the 1989 Order”), and to execute warrants and to seize and retain things for which a search has been authorised under Article 10 of the 1989 Order. The power of seizure is extended to computerised information. Both paragraphs provide that the standard safeguards covering the process of applying for a search warrant, the contents of the warrant and the way in which the warrant should be exercised are extended to warrants issued to designated persons. *Paragraph 2* imposes the same obligations on designated persons in relation to providing records of seizure, providing access to or copies of seized material and retaining seized material as apply to constables. It also gives the same protection from seizure to legally privileged material in relation to seizures by designated persons as applies to seizures by constables.
85. *Paragraph 3* enables a suitably designated person to obtain access to confidential material under Article 11 of the 1989 Order by making an application to a county court judge under Schedule 1 to that Order. It extends the power of seizure conferred by paragraph 10 of Schedule 1 to the 1989 Order to a designated person, enabling him to seize and retain any confidential material for which a search has been authorised under that Schedule. This power of seizure is extended to computerised information. It extends standard protections and obligations under the 1989 Order to material seized by or produced to a designated person under these provisions.
86. *Paragraph 4* enables a suitably designated person to use the powers under Article 20 of the 1989 Order to enter and search any premises occupied or controlled by a person who is under arrest for an arrestable offence and to seize and retain items found on such a search. The designated person may conduct such a search before the arrested person is taken to a police station and without obtaining the authority of an inspector if the presence of the arrested person is necessary for the effective investigation of the offence. Standard protections and obligations under the 1989 Order are extended to material seized by a designated person under these provisions. Again, the power of seizure is extended to computerised information.
87. *Paragraph 5* enables a suitably designated person, when lawfully on any premises, to exercise the same general powers to seize things as are available to a constable under

*These notes refer to the Police (Northern Ireland) Act  
2003 (c.6) which received Royal Assent on 8 April 2003*

Article 21 of the 1989 Order. The designated person may also make use of the power to require, in certain circumstances, the production of electronically stored material in a form in which it can be taken away. Once again, standard protections and obligations under the 1989 Order are applied.

88. *Paragraph 6* enables a suitably designated person, to supervise access to, and copying of, any material seized by a constable, where a person has the right to access or to have a copy of that material under the standard safeguards in the 1989 Order. A suitably designated person is also given power to photograph, or have photographed, anything that he has the power to seize.
89. *Paragraph 7* enables a suitably designated person to arrest a detained person for a further offence if it appears to him that the detained person would be liable to arrest for that further offence if released from his initial arrest. Article 5 of the [Criminal Evidence \(Northern Ireland\) Order 1988 \(S.I. 1988/1987 \(N.I. 20\)\)](#) applies where a person is arrested by a designated person to the same extent as it would if the arrest were by a constable.
90. *Paragraph 8* enables a suitably designated person to transfer a detainee to a designated civilian investigating officer. Article 40 of the 1989 Order places on custody officers the duty to ensure that all detainees are treated in accordance with the Order and relevant codes of practice. Article 40(2) of the 1989 Order provides that if a detainee is transferred to the custody of another police officer in accordance with the 1989 Order, then that officer takes on responsibility for compliance with the duty, and the custody officer is relieved from it. *Paragraph 8(4)* provides that when a detainee is transferred to a designated investigating officer, the custody officer's responsibilities are similarly transferred to that designated investigating officer. Article 40(3) – which imposes a duty to report back to a custody officer, when a transferred detainee is returned to him, on compliance with Article 40 and the codes of practice – is also extended to a designated person into whose custody a detainee has been transferred. A designated investigating officer using powers under this paragraph is regarded as having the detainee in his lawful custody, with a duty to prevent his escape and entitlement to use reasonable force to prevent this.
91. *Paragraph 9* enables a suitably designated person to question an arrested person under Articles 5 and 6 of the Criminal Evidence (Northern Ireland) Order 1988 about facts which may be attributable to the person's participation in an offence, for example, the person's presence at a particular place at a relevant time or the presence of potentially incriminating objects such as a mark. A suitably designated person may also warn the suspect about the capacity of a court to draw inferences from a failure to give a satisfactory account in response to questioning.
92. *Paragraph 10* enables a suitably designated person to use extended powers of seizure and retention available to constables under Part 2 of the [Criminal Justice and Police Act 2001 \(c.16\)](#), where those powers supplement powers conferred on designated persons under other paragraphs of Part 1 of the Schedule. In essence this means that where a designated person has been provided with a specific power of seizure, and the exercise of the power on premises would be difficult or impossible due to the sheer bulk or complexity of the material to be searched through, that material can be moved elsewhere for sifting, subject to a range of detailed safeguards.