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STATUTORY INSTRUMENTS

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**1989 No. 1341**

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

**PART V**

**DETENTION**

*Detention—miscellaneous*

**Detention after charge**

**47.**—(1) Where a person—

(a) is charged with an offence; and

(b) after being charged—

(i) is kept in police detention; or

(ii) is detained in a place of safety in pursuance of arrangements made under Article 39,

he shall be brought before a magistrates' court in accordance with the provisions of this Article.

(2) If he is to be brought before a magistrates' court for the petty sessions district in which the police station at which he was charged is situated, he shall be brought before such a court as soon as is practicable and in any event not later than the day next following the day on which he is charged with the offence.

(3) If he is to be brought before a magistrates' court for a petty sessions district other than that in which the police station at which he was charged is situated, he shall be removed to that petty sessions district as soon as is practicable and brought before such a court as soon as is practicable after his arrival in that district and in any event not later than the day next following the day of his arrival in that district.

(4) Where the day next following the day on which the person is charged with the offence is Christmas Day, Good Friday or a Sunday, he shall be brought before a magistrates' court on the next following day which is not one of those days.

(5) Nothing in this Article requires a person who is in hospital to be brought before a court if he is not well enough.

**Bail after arrest**

**48.**—(1) A person who is released on bail shall be subject to a duty—

(a) to appear before a magistrates' court at such time and at such place as the custody officer may appoint; or

(b) to attend at such police station at such time as the custody officer may appoint.

(2) The time to be appointed under paragraph (1) shall be either the date of the next petty sessions at the place appointed or a date not later than 28 days from the date on which the person is released.

(3) The custody officer may require a person who is to be released on bail, to enter into a recognisance conditioned upon—

- (a) his subsequent appearance before a magistrates' court in accordance with sub-paragraph (a) of paragraph (1); or
- (b) his subsequent attendance at a police station in accordance with sub-paragraph (b) of that paragraph,

as the case may be.

(4) A recognisance under paragraph (3) may be taken before the custody officer.

(5) A person entering into a recognisance to appear before a magistrates' court in accordance with sub-paragraph (a) of paragraph (1) shall be deemed for the purpose of Articles 48 and 49 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(1)</sup> to have been remanded on bail.

(6) Paragraphs (7) to (11) apply to a person who is released on bail (with or without entering into a recognisance) subject to a duty to attend at a police station in accordance with sub-paragraph (b) of paragraph (1).

(7) The custody officer may give notice in writing to such a person as is mentioned in paragraph (6) that his attendance at the police station is not required.

(8) Where it appears to the custody officer that such a person is, by reason of illness or other unavoidable cause, unable to appear at the police station at the time appointed, the custody officer may extend the time for such further period as may appear reasonable in the circumstances.

(9) Where a person is detained under Article 38(3), any time during which he was in police detention prior to being granted bail shall be included as part of any period which falls to be calculated under this Part.

(10) Nothing in this Article shall prevent the re-arrest without warrant of such a person as is mentioned in paragraph (6) if new evidence justifying a further arrest has come to light since his release.

(11) Where such a person is re-arrested, the provisions of this Part shall apply to him as they apply to a person arrested for the first time.

(12) In Article 129 of the Magistrates' Courts (Northern Ireland) Order 1981, for paragraph (2) there shall be substituted the following paragraph—

“(2) Where a warrant has been endorsed for bail under paragraph (1)—

- (a) where the person arrested is to be released on bail on his entering into a recognizance without sureties, it shall not be necessary to take him to a police station, but if he is so taken, he shall be released from custody on his entering into the recognizance; and
- (b) where he is to be released on his entering into a recognizance with sureties, he shall be taken to a police station on his arrest, and the custody officer there shall (subject to his approving any surety tendered in compliance with the endorsement) release him from custody as directed in the endorsement.”.

(13) In this Part “bail” means bail granted in accordance with this Article.

### **Police detention to count towards custodial sentence**

**49.**—(1) In subsection (2) of section 26 of the Treatment of Offenders Act (Northern Ireland) 1968<sup>(2)</sup> (computation of custodial sentences) for the words from “period”, in the first place where it occurs, to “the offender” there shall be substituted the words “relevant period, but where he”.

(1) 1981 NI 26

(2) 1981 NI 26

- (2) The following subsection shall be inserted after that subsection—
- “(2A) In subsection (2) “relevant period” means—
- (a) any period during which the offender was in police detention in connection with the offence for which the sentence was passed; or
  - (b) any period during which he was in custody—
    - (i) by reason only of having been committed to custody by an order of a court made in connection with any proceedings relating to that sentence or the offence for which it was passed or any proceedings from which those proceedings arose; or
    - (ii) by reason of his having been so committed and having been concurrently detained otherwise than by order of a court.”.
- (3) The following subsections shall be added after subsection (5) of that section—
- “(6) A person is in police detention for the purposes of this section—
- (a) at any time when he is in police detention for the purposes of the Police and Criminal Evidence (Northern Ireland) Order 1989; and
  - (b) at any time when he is detained under section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989.
- (7) No period of police detention shall be taken into account under this section unless it falls after the coming into operation of Article 49 of the Police and Criminal Evidence (Northern Ireland) Order 1989.”.

### **Records of detention**

- 50.**—(1) The Chief Constable shall keep written records showing on an annual basis—
- (a) the number of persons kept in police 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 police detention on its authority; and
    - (iii) whether he was charged or released without charge.
- (2) Every annual report under section 15(1) of the Police Act (Northern Ireland) 1970<sup>(3)</sup> shall contain information about the matters mentioned in paragraph (1) in respect of the period to which the report relates.

### **Savings**

- 51.** Nothing in this Part shall affect—
- (a) the powers conferred on immigration officers by section 4 of and Schedule 2 to the Immigration Act 1971<sup>(4)</sup> (administrative provisions as to control on entry etc.);

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<sup>(3)</sup> 1968 c. 29 (N.I.)

<sup>(4)</sup> 1970 c. 9 (N.I.)

- (b) the powers conferred by or by virtue of section 14 of the Prevention of Terrorism (Temporary Provisions) Act 1989<sup>(5)</sup> or Schedule 2 or 5 to that Act (powers of arrest and detention and control of entry and procedure for removal);
- (c) any duty of a police officer under—
  - (i) section 129, 190 or 202 of the Army Act 1955<sup>(6)</sup> (duties of governors of prisons and others to receive prisoners, deserters, absentees and persons under escort);
  - (ii) section 129, 190 or 202 of the Air Force Act 1955<sup>(7)</sup> (duties of governors of prisons and others to receive prisoners, deserters, absentees and persons under escort);
  - (iii) section 107 of the Naval Discipline Act 1957<sup>(8)</sup> (duties of governors of civil prisons etc.); or
  - (iv) paragraph 5 of Schedule 5 to the Reserve Forces Act 1980<sup>(9)</sup> (duties of governors of civil prisons); or
- (d) any right of a person in police detention to apply for a writ of habeas corpus or other prerogative remedy.

### **Children**

**52.** This Part does not apply to a child apparently under the age of 14 who is arrested without a warrant for an offence other than homicide and to whom section 50 of the Children and Young Persons Act (Northern Ireland) 1968<sup>(10)</sup> accordingly applies.

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(5) 1971 c. 77  
(6) 1989 c. 4  
(7) 1955 c. 18  
(8) 1955 c. 19  
(9) 1957 c. 53  
(10) 1980 c. 9