Draft Regulations laid before Parliament under section 37(3) of the Borders, Citizenship and Immigration Act 2009 (c. 11), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2026 No.

IMMIGRATION, NORTHERN IRELAND

REVENUE AND CUSTOMS

The Police and Criminal Evidence (Northern Ireland) Order 1989 (Application to Immigration Officers and Designated Customs Officials in Northern Ireland) and Consequential Amendments Regulations 2026

Made - - - - ***

Coming into force

The Secretary of State makes these Regulations in exercise of the powers conferred by section 23(1), (3) and (5), section 36(1) and (2) and section 37(2) of the Borders, Citizenship and Immigration Act 2009(**a**).

In accordance with section 37(3) of that Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police and Criminal Evidence (Northern Ireland) Order 1989 (Application to Immigration Officers and Designated Customs Officials in Northern Ireland) and Consequential Amendments Regulations 2026.

(2) These Regulations come into force on the day after the day on which they are made.

(3) Subject to paragraph (4), these Regulations extend to Northern Ireland only.

(4) The repeal and amendments made by Part 5 of these Regulations have the same extent as the enactment to which they relate.

(**a**) 2009 c. 11.

Interpretation

2.—(1) In these Regulations—

"the customs and excise Acts" has the meaning given to it by section 1 of the Customs and Excise Management Act 1979(**a**);

"customs office" means premises wholly or partly occupied by designated customs officials(**b**);

"function" means any power or duty (including a power or duty that is ancillary to another power or duty);

"immigration officer" means a person appointed as an immigration officer by the Secretary of State under paragraph 1 of Schedule 2 to the Immigration Act 1971(**c**);

"immigration or nationality matter" is a matter in relation to which an immigration officer exercises functions relating to immigration or nationality or in relation to which the Secretary of State has functions relating to immigration or nationality;

"office of Revenue and Customs" means premises wholly or partly occupied by His Majesty's Revenue and Customs;

"the Order" means the Police and Criminal Evidence (Northern Ireland) Order 1989(**d**);

"statutory provision" has the meaning given to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954(**e**).

(2) A person is in customs detention for the purposes of these Regulations if—

(a) the person has been taken to a customs office after being arrested for an offence, or

(b) the person is arrested at a customs office,

and is detained there or elsewhere in the charge of a designated customs official.

(3) A person is in Revenue and Customs detention for the purposes of these Regulations if—

(a) the person has been taken to an office of Revenue and Customs after being arrested for an offence; or

(b) the person is arrested at an office of Revenue and Customs,

and is detained there or elsewhere in the charge of an officer of Revenue and Customs.

(**a**) 1979 c. 2. There are amendments, but none relevant to these Regulations.
(**b**) See section 38 of the Borders Citizenship and Immigration Act 2009 for the definition of "designated customs official".
(**c**) 1971 c. 77. There are amendments, but none relevant to these Regulations.
(**d**) S.I. 1989/1341 (N.I. 12).
(**e**) 1954 c. 33 (N.I.). Section 1(f) was amended by paragraph 1(2) of Schedule 2 to the Retained EU Law (Revocation and Reform) Act 2023 (c. 28), S.I. 1999/663 and S.I. 2020/463.

PART 2

Investigations Conducted by Immigration Officers

Application of the Police and Criminal Evidence (Northern Ireland) Order 1989

3.—(1) Subject to the modifications in paragraphs (2) and (3) and regulations 4 to 11, the provisions of the Order specified in Part 1 of Schedule 1 to these Regulations apply in relation to investigations conducted by immigration officers.

(2) Those provisions apply in relation to investigations conducted by immigration officers as if the words and phrases in Column 1 of Part 2 of Schedule 1 to these Regulations were replaced by the corresponding words and phrases in Column 2 of that Part.

(3) Where in those provisions anything is to be done by a constable of a rank specified in Column 1 of Part 3 of Schedule 1 to these Regulations, that thing is to be done by an immigration officer of at least the grade specified in the corresponding entry of Column 2 of that Part, and the Order is to be construed accordingly.

(4) Where a person is detained by the police under Part V of the Order (detention), in connection with an investigation conducted by an immigration officer, the Order applies as if the following references included references to an immigration officer—

(a) in Article 40(2) and (3), "a police officer", "an officer" and "the officer";

(b) in Articles 2(3)(b)(**a**), 42(2)(b)(ii)(**b**), 44(1) and 45(1), "a constable".

(5) In the Order as it applies by virtue of this regulation, an expression defined in these Regulations has the same meaning as in these Regulations.

Exceptions

4.—(1) Nothing in the application of the Order by virtue of regulation 3 confers on an immigration officer any power to—

(a) charge a person with any offence, or

(b) release a person on bail.

(2) Accordingly, in the Order as it applies by virtue of regulation 3—

(a) references to a person being charged with an offence are to a person being charged with an offence by a constable, and

(b) references to a person being released on bail are to a person being released on bail by a constable.

(3) Nothing in the application of the Order by virtue of regulation 3 confers on an immigration officer any power to detain a person for an offence after the person has been charged with that offence.

Authorisation

5. Powers and functions in the provisions of the Order, as applied by regulation 3, may be exercised by an immigration officer only if the officer is acting with the authority (which may be general or specific) of the Secretary of State.

(**a**) Article 2(3) has been amended by article 41(1) of S.I. 2007/288 (N.I. 2). There are further amendments, but none relevant to these Regulations.

(**b**) Article 42(2) has amendments, but none relevant to these Regulations.

Use of reasonable force

6. Where any provision of the Order as applied by regulation 3—

(a) confers a power on an immigration officer, and

(b) does not provide that the power may only be exercised with the consent of some person other than the immigration officer upon whom the power is conferred,

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

Arrest without warrant

7. Article 26(2) of the Order(**a**), as applied by regulation 3, does not limit any other statutory provision which confers upon an immigration officer the power to arrest or detain a person.

Search of persons found on premises

8.—(1) This regulation applies where an immigration officer searches premises in reliance on a warrant issued under Article 10 of, or paragraph 9 of Schedule 1 to, the Order(**b**), as applied by regulation 3.

(2) The immigration officer may search any person found on the premises where the immigration officer 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 for which the warrant was issued.

(3) The power to search conferred by paragraph (2) is only a power to search to the extent that is reasonably required for the purpose of discovering any such material.

(4) The power to search conferred by paragraph (2) is not to be construed as authorising an immigration officer to require a person to remove any of his clothing, other than an outer coat, jacket or gloves but it does authorise a search of a person's mouth.

(5) No person may be searched except by a person of the same sex.

Seizure and retention of things found upon search

9.—(1) The power of an immigration officer to seize and retain anything found upon a lawful search of a person or premises under Article 21 of the Order(**c**), as applied by regulation 3, has effect notwithstanding that the offence to which the thing relates does not relate to an immigration or nationality matter.

(2) Nothing in the application of the Order by virtue of regulation 3 prevents anything lawfully seized by a person under any statutory provision from being accepted and retained by an immigration officer.

(3) Article 23 of the Order (**d**), as applied by regulation 3, does not apply to anything seized or retained by an immigration officer under the Immigration Acts(**e**).

(**a**) Article 26 was substituted by S.I. 2007/288 (N.I. 2).

(**b**) Article 10 has been amended by paragraph 90(2) of Schedule 14 to the Immigration and Asylum Act 1999 (c. 33) and by S.I. 2007/288 (N.I. 2). Paragraph 9 of Schedule 1 has been amended by S.I. 2007/288 (N.I. 2).

(**c**) Article 21 has been amended by paragraph 13 of Schedule 2 to the Criminal Justice and Police Act 2001 (c. 16).

(**d**) Article 23 has been amended by S.I. 2007/288 (N.I. 2).

(**e**) See section 61 of the UK Borders Act 2007 (c. 30) for definition of "Immigration Acts".

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

10. Article 20 of the Order(**a**), as applied by regulation 3, has effect as if for paragraph (8) there were substituted—

> "(8) If the person who was in occupation or control of the premises at the time of the search is in police detention at the time the record is made, the immigration officer shall ensure that the record is included as part of the person's custody record.".

Modification of Article 24 of the Order (retention)

11. Article 24 of the Order(**b**), as applied by regulation 3, has effect as if for paragraph (5) there were substituted—

> "(5) Nothing in this Article affects any power of a court to make an order under section 26 of the UK Borders Act 2007 (disposal of property)(**c**).".

PART 3

Investigations conducted, and persons detained, by designated customs officials

Application of the Police and Criminal Evidence (Northern Ireland) Order 1989

12.—(1) Subject to the modifications in paragraphs (2) and (3) and regulations 13 to 29, and to the transitional provision in regulation 30, the provisions of the Order specified in Part 1 of Schedule 2 to these Regulations apply in relation to investigations conducted by designated customs officials and in relation to persons detained by designated customs officials.

(2) Those provisions apply in relation to investigations conducted by designated customs officials and to persons detained by designated customs officials as if the words and phrases that are contained in the provisions specified in Column 1 of Part 2 of Schedule 2 to these Regulations were replaced by the words and phrases in Column 2 of that Part.

(3) Where in those provisions anything is to be done by a constable of a rank specified in Column 1 of Part 3 of Schedule 2 to these Regulations, that thing is to be done by a designated customs official of at least the grade specified in the corresponding entry of Column 2 of that Part, and the Order is to be construed accordingly.

(4) Where a person is detained by the police under Part V of the Order (detention), in connection with an investigation conducted by a designated customs official, the Order applies subject to paragraphs (5) to (7) and regulation 14(6).

(5) The following references are to be treated as including references to a designated customs official—

(a) in Article 40(2) and (3) of the Order, "a police officer", "an officer" and "the officer";

(b) in Articles 2(3)(b), 42(2)(b)(ii), 44(1) and 45(1) of the Order, "constable".

(6) The references to "police detention" in Article 40(1) and (2) of the Order are to be treated as including a reference to customs detention.

(7) In the Order as it applies by virtue of this regulation, an expression which is defined in these Regulations has the same meaning as in these Regulations.

(**a**) Article 20 has been amended by S.I. 2004/1500 (N.I. 9) and S.I. 2007/288 (N.I. 2).
(**b**) Article 24 has been amended by article 24(5) and by paragraph 18(3) of Schedule 4 to the Police (Northern Ireland) Act 1998 and by S.I. 2007/288 (N.I. 2). There are further amendments, but none relevant to these Regulations.
(**c**) 2007 c. 30.

Exceptions

13.—(1) Nothing in the application of the Order by virtue of regulation 12 confers on a designated customs official any power to—

(a) charge a person with any offence, or

(b) release a person on bail.

(2) Accordingly, in the Order as it applies by virtue of regulation 12—

(a) references to a person being charged with an offence are to a person being charged with an offence by a constable, and

(b) references to a person being released on bail are to a person being released on bail by a constable.

Detention

14.—(1) Nothing in the application of the Order by virtue of regulation 12 prevents a detained person from being transferred from—

(a) Revenue and Customs detention to customs detention;

(b) police detention to customs detention;

(c) customs detention to police detention.

(2) Subject to the modification in regulation 23(2), where a person is transferred from Revenue and Customs detention to customs detention, any period required to be calculated for the purposes of Part V of the Order, as applied by regulation 12(1), is to be calculated as if the period for which the person was in Revenue and Customs detention was a period of customs detention.

(3) Subject to the modification in regulation 23(2), where a person is transferred from police detention to customs detention, any period required to be calculated for the purposes of Part V of the Order, as applied by regulation 12(1), is to be calculated as if the period for which the person was in police detention was a period of customs detention.

(4) Where a person is transferred from customs detention to police detention, any period required to be calculated for the purposes of Part V of the Order is to be calculated as if the period for which the person was in customs detention was a period of police detention.

(5) In paragraph (4), the reference to a period of customs detention includes any period treated as a period of customs detention by virtue of paragraph (2) or by virtue of paragraph (3).

(6) The power of a custody officer under Article 39(2) of the Order, as applied by regulation 12(4), to authorise a person to be kept in customs detention after they have been charged with an offence applies only where that person has been charged with an offence against section 5(2) of the Misuse of Drugs Act 1971 (restriction of possession of controlled drugs)(**a**) or a drug trafficking offence and where that person is to be detained for the purpose of bringing him before a magistrates' court to request his remand to customs detention under section 152(1) of the Criminal Justice Act 1988 (remands of suspected drug offenders to detention)(**b**).

(7) In this regulation—

(a) "drug trafficking offence", in its application in Northern Ireland, has the meaning given to it by section 152(4) of the Criminal Justice Act 1988(**c**);

(**a**) 1971 c. 38. Section 5 has amendments, but none relevant to these Regulations.

(**b**) 1988 c. 33. Section 152(1A), which is of relevance to section 152(1), was inserted by section 8(b) of the Drugs Act 2005 (c. 17).

(**c**) 1988 c. 33. Section 152(4) was substituted by S.I. 1990/2588 (N.I. 17) and S.I. 1996/1299 (N.I. 9), and subsequently amended by paragraph 17(6) and Schedule 11 to the Proceeds of Crime Act 2002 (c. 29).

(b) a person is in police detention for the purposes of this regulation if they fall within the meaning given by Article 2(3) of the Order, as modified by regulation 12(5)(b).

Use of reasonable force

15. Where any provision of the Order as applied by regulation 12—

(a) confers a power on a designated customs official, and

(b) does not provide that the power may only be exercised with the consent of some person other than the designated customs official upon whom the power is conferred,

the designated customs official may use reasonable force, if necessary, in the exercise of the power.

Arrest without warrant

16. Article 26(2) of the Order, as applied by regulation 12, does not limit any other statutory provision which confers upon a designated customs official the power to arrest or detain a person.

Search of persons found on premises

17.—(1) This regulation applies where a designated customs official searches premises in reliance on a warrant issued under Article 10 of, or paragraph 9 of Schedule 1 to, the Order, as applied by regulation 12.

(2) The designated customs official may search any person found on the premises where the designated customs official 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 for which the warrant was issued.

(3) The power to search conferred by paragraph (2) is only a power to search to the extent that is reasonably required for the purpose of discovering any such material.

(4) The power to search conferred by paragraph (2) is not to be construed as authorising a designated customs official to require a person to remove any of his clothing, other than an outer coat, jacket or gloves but it does authorise a search of a person's mouth.

(5) No person may be searched except by a person of the same sex.

Seizure and retention of things found upon search

18.—(1) The power of a designated customs official to seize and retain anything found upon a lawful search of a person or premises under Article 21 of the Order (general power of seizure etc.), as applied by regulation 12, has effect notwithstanding that the offence to which the thing relates does not relate to a general customs matter or customs revenue matter.

(2) Nothing in the application of the Order by virtue of regulation 12 prevents anything lawfully seized by a person under any statutory provision from being accepted and retained by a designated customs official.

(3) Article 23 of the Order (access and copying), as applied by regulation 12, does not apply to anything seized as liable to forfeiture under the customs and excise Acts.

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

19. Article 20 of the Order, as applied by regulation 12, has effect as if for paragraph (8) of Article 20 there were substituted—

"(8) If the person who was in occupation or control of the premises at the time of the search is in police detention or customs detention at the time the record is made, the designated customs official shall ensure that the record is included as part of the person's custody record.".

Modification of Article 32 of the Order (arrest elsewhere than at police station)

20. Article 32 of the Order(**a**), as applied by regulation 12, has effect as if the following were omitted—

(a) references to Article 32A in subsections (1B), (10A), (13) and (15), and

(b) references to "releasing him on bail" in paragraphs (10A) and (13).

Modification of Article 36 of the Order (designated police stations)

21. Article 36 of the Order, as applied by regulation 12, has effect as if for that article there were substituted—

"Designated customs offices

36.—(1) The Secretary of State shall designate the customs offices which, subject to Article 32(3), (5) and (6), are to be the offices to be used for the purposes of detaining arrested persons.

(2) The Secretary of State's duty under paragraph (1) is to designate customs offices appearing to the Secretary of State to provide enough accommodation for that purpose.

(3) Without prejudice to sections 17(1) and (3) and 18(3) of the Interpretation Act (Northern Ireland) 1954 (statutory powers and duties generally and provisions as to holders of offices) the Secretary of State—

(a) may designate a customs office which was not previously designated; and

(b) may direct that a designation of an office previously made shall cease to operate.

(4) In this Order, as it has effect by virtue of the Police and Criminal Evidence (Northern Ireland) Order 1989 (Application to Immigration Officers and Designated Customs Officials in Northern Ireland) Regulations 2025, "designated customs office" means a customs office designated under this Article (as modified by those Regulations).".

Modification of Article 37 of the Order (custody officers at police stations)

22. Article 37 of the Order(**b**), as applied by regulation 12, has effect as if for paragraph (2) there were substituted—

"(2) A custody officer for a designated customs office shall be appointed—

(a) by the Secretary of State; or

(b) by such designated customs official as the Secretary of State may direct.".

(**a**) Article 32 has been amended by paragraph 8 of Schedule 15 to the Terrorism Act 2000 (c. 11), S.I. 2004/1500 (N.I. 9) and Schedule 1 of S.I. 2023/1386. There are further amendments, but none relevant to these Regulations.

(**b**) Article 37 has been amended by paragraph 124 of Schedule 7 to the Policing and Crime Act 2009 (c. 26). There are further amendments, but none relevant to these Regulations.

Modification of Article 42 of the Order (limits on period of detention without charge)

23.—(1) Article 42 of the Order(**a**), as applied by regulation 12, has effect as if for paragraph (2)(a)(i) there were substituted—

> "(i) the time at which that person arrives at the customs office in Northern Ireland at which the offence for which the person was arrested is being investigated;".

(2) Article 42 of the Order, as applied by regulation 12, has effect as if in paragraph (2)(c) after "in any other case" there were inserted ", except where paragraph (3B) applies," and after paragraph (3) there were inserted—

> "(3A) Paragraph (3B) applies where—
>
> (a) a person is in customs detention at one customs office and the offence for which the person has been arrested is being investigated at another customs office; or
>
> (b) a person is in police detention at a police station and the offence for which the person has been arrested is being investigated at a customs office; or
>
> (c) a person is in Revenue and Customs detention and the offence for which the person has been arrested is being investigated at a customs office,
>
> and the person is taken to the customs office where the offence is being investigated for the purpose of investigating that offence, without being questioned at the first customs office, police station or office of Revenue and Customs in order to obtain evidence in relation to it.
>
> (3B) Where this paragraph applies, the relevant time shall be—
>
> (a) the time 24 hours after he leaves the first customs office, the police station or the office of Revenue and Customs where he was detained; or
>
> (b) the time at which he arrives at the customs office where the offence is being investigated,
>
> whichever is the earlier.".

Modification of Article 43 of the Order (authorisation of continued detention)

24. Article 43 of the Order(**b**), as applied by regulation 12, has effect as if after paragraph (2) there were inserted—

> "(2A) If it is proposed to transfer a person in customs detention to a police station or a customs office other than that at which the person is detained, the designated customs official determining whether or not to authorise keeping the person in detention under paragraph (1) shall have regard to the distance and time the journey would take.".

Modification of Article 44 of the Order (warrants of further detention)

25. Article 44 of the Order(**c**), as applied by regulation 12, has effect as if after paragraph (12) there were inserted—

> "(12A) If it is proposed to transfer a person in customs detention to a police station or a customs office other than that at which the person is detained when the complaint made under subsection (1) is made, the court hearing the application shall have regard to the distance and the time that the journey will take.".

(**a**) Article 42 has been amended by S.I. 1995/2993 (N.I. 17). There are further amendments, but none relevant to these Regulations.
(**b**) Article 43 has been amended by S.I. 1995/2993 (N.I. 17), S.I. 2004/1500 (N.I. 9) and S.I. 2007/288 (N.I. 2).
(**c**) Article 44 has been amended by S.I. 1995/2993 (N.I. 17) and S.I. 2007/288 (N.I. 2).

Modification of Article 50 of the Order (records of detention)

26. Article 50 of the Order(**a**), as applied by regulation 12, has effect as if for that article there were substituted—

"Records of detention

50.—(1) The Secretary of State shall keep written records showing on an annual basis—

(a) the number of persons kept in 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 customs detention on its authority; and

(iii) whether the person was charged or released without charge.

(2) The Secretary of State must publish information about the matters mentioned in paragraph (1) once in each calendar year and the published information must relate to the records of persons kept in customs detention in the preceding calendar year.".

Modification of Article 55 of the Order (searches of detained persons)

27. Article 55 of the Order(**b**), as applied by regulation 12, has effect as if for paragraph (7) there were substituted—

"(7) A person who is in custody at a customs office or is otherwise in customs detention may at any time be searched in order to ascertain whether he has anything with him which he could use for any of the purposes specified in paragraph (4)(a).".

Modification of Article 56 of the Order (intimate searches)

28. Article 56 of the Order(**c**), as applied by regulation 12, has effect as if for paragraph (14) there were substituted—

"(14) The Secretary of State must keep written records showing on an annual basis the information about searches carried out under this Article by designated customs officials that is mentioned in paragraph (15).

(14A) The Secretary of State must publish information about the records referred to in paragraph (14) once in each calendar year and the published information must relate to the records of searches carried out by designated customs officials under this Article in the preceding calendar year.".

(**a**) Article 50 has been amended by paragraph 10(3) and Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32).
(**b**) Article 55 has been amended S.I. 2004/1500 (N.I. 9).
(**c**) Article 56 has been amended by S.I. 2007/288 (N.I. 2). There is are further amendments, but none relevant to these Regulations.

Modification of Articles 63P, 63Q and 63R of the Order (destruction and use of samples)

29. Articles 63P, 63Q and 63R of the Order(**a**), as applied by regulation 12, have effect as if they related only to samples taken from a person under Article 62 (intimate samples) of the Order(**b**) as applied by virtue of regulation 12.

PART 4

Transitional provisions

Transitional provision for Articles 63P, 63Q and 63R of the Order (destruction and use of samples)

30. Until section 9(1) of, and Schedule 2 to, the Criminal Justice Act (Northern Ireland) 2013 come into force—

(a) Part 1 of Schedule 2 to these Regulations has effect as if for the entries for Articles 63P, 63Q and 63R there were substituted "Article 64(1A), (1B), (3), (3AA), (3AB), (3AC), (3AD), (5) and (7) (destruction of fingerprints and samples) (subject to the modification in regulation 30(b))"(**c**); and

(b) Article 64 of the Order, as applied by virtue of paragraph (a), has effect as if it related only to samples taken from a person under Article 62 (intimate samples) of the Order, as applied by virtue of regulation 12.

PART 5

Repeal and Consequential Amendments

Repeal of section 22 of the Borders, Citizenship and Immigration Act 2009

31. Section 22 of the Borders, Citizenship and Immigration Act 2009 (application of the PACE Orders)(**d**) is repealed.

Consequential amendments to the Borders, Citizenship and Immigration Act 2009

32.—(1) The Borders, Citizenship and Immigration Act 2009 is amended as follows.

(2) In section 1(8)(b)(**e**) for "any of sections 22 to" substitute "section 23 or".

(3) In section 7(9)(b)(**f**) for "any of sections 22 to" substitute "section 23 or".

(4) In section 57(2)(**g**)—

(a) for "Sections 22 (application of the PACE orders) and" substitute "Section", and

(b) for "extend" substitute "extends".

(**a**) Articles 63P, 63Q and 63R were inserted by Schedule 2 to the Criminal Justice Act (Northern Ireland) 2013 (c. 7) (N.I.) which has not yet been commenced.

(**b**) Article 62 has been amended by paragraph 8 of Schedule 15 to the Terrorism Act 2000 (c. 11), section 42 of the Police (Northern Ireland) Act 2003 (c. 6), paragraph 20 of Schedule 4 to the Counter-Terrorism and Border Security Act 2019 (c. 3), paragraph 5 of Schedule 18 to the National Security Act 2023 (c. 32), S.I. 1995/757 (N.I. 3), S.I. 1995/2993 (N.I. 17), S.I. 1995/2994 (N.I. 18), S.I. 1996/1320 (N.I. 10) and S.I. 2007/288 (N.I. 2).

(**c**) Article 64 has been amended by section 83 of the Criminal Justice and Police Act 2001 (c. 16), paragraph 5 of Schedule 18 to the National Security Act 2023, S.I. 1995/2993 (N.I. 17) and S.I. 2007/288 (N.I. 2).

(**d**) Section 22 has been amended by S.I. 2013/1542.

(**e**) There are amendments to this section, but none relevant to these Regulations.

(**f**) There are amendments to this section, but none relevant to these Regulations.

(**g**) There are amendments to this section, but none relevant to these Regulations.

Minister of State
Home Office

SCHEDULES

SCHEDULE 1

Regulation 3

PART 1

Provisions of the Order applied to investigations conducted by immigration officers

Article 10 (power of justice of the peace to authorise entry and search of premises) (subject to the modification in regulation 8)

Article 11(1) (special provisions as to access to excluded or special procedure material)(**a**) and Schedule 1 (special procedure)(**b**)

Article 17 (search warrants–safeguards)(**c**)

Article 18 (execution of warrants)(**d**)

Article 19(1)(a)(i), (b), (ca), (d), (2) and (3) (entry for purpose of arrest etc.)(**e**)

Article 20 (entry and search after arrest) (subject to the modifications in regulation 10)

Article 21 (general power of seizure etc.) (subject to the modification in regulation 9(1))

Article 22 (extension of powers of seizure to computerised information)(**f**)

Article 23 (access and copying) (subject to the modification in regulation 9(3))

Article 24(1) to (5) and (7) (retention) (subject to the modification in regulation 11)

Article 26(1) to (5)(c)(iii) and (d) to (f) (arrest without warrant: constables) (subject to the modification in regulation 16)

Article 30 (information to be given on arrest)(**g**)

Article 31 (voluntary attendance at police station etc.)(**h**)

Article 32(1) to (4)(a) and (5) to (16) (arrest elsewhere than at police station)

Article 33 (arrest for further offence)

Article 34(1) to (9) (search upon arrest)(**i**)

Article 47A (power of arrest for failure to answer to police bail)(**j**)

Article 51(b) (savings)(**k**)

(**a**) Article 11 has amendments, but none relevant to these Regulations.
(**b**) Schedule 1 has been amended by paragraph 14 of Schedule 2 to the Criminal Justice and Police Act 2001 (c. 16) and S.I. 2007/288 (N.I. 2).
(**c**) Article 17 has been amended by S.I. 2007/288 (N.I. 2).
(**d**) Article 18 has been amended by paragraph 97(1) of Schedule 1 to the Justice Act (Northern Ireland) 2015 (c. 9) (N. I.) and S.I. 2007/288 (N.I. 2).
(**e**) Article 19 has been amended by S.I. 1995/2993 (N.I. 17), and S.I. 1998/1504 (N.I. 9), S.I. 2007/288 (N.I. 2). There are other amendments, but none relevant to these Regulations.
(**f**) Article 22 has been amended by paragraph 13 of Schedule 2 to the Criminal Justice and Police Act 2001 (c. 16).
(**g**) Article 30 has been amended by paragraph 8 of Schedule 15 to the Terrorism Act 2000 (c. 11).
(**h**) Article 31 has been amended by S.I. 1995/2993 (N.I. 17).
(**i**) Article 34 has been amended by S.I. 1995/2993 (N.I. 17) and S.I. 2007/288 (N.I. 2). There are other amendments, but none relevant to these Regulations.
(**j**) Article 47A was inserted by S.I. 1995/2993 (N.I. 17).
(**k**) Article 51(b) was substituted by paragraph 8 of Schedule 15 to the Terrorism Act 2000 (c. 11), and subsequently amended by paragraph 4 of Schedule 19 to the Police, Crime, Sentencing and Courts Act 2022 (c. 32).

Article 84(2) (police officers performing duties of higher rank)(**a**)

PART 2

Modifications: Substitution of Equivalent Words and Phrases in the Order

Column 1	*Column 2*
constable (all references)	immigration officer
officer/police officer (all references, except those in Articles 18(10A) and 20(8) or any reference to custody officer or officer of Revenue and Customs)	immigration officer
rank (all references)	grade
the police (all references)	the Secretary of State or immigration officers

PART 3

Modifications: Equivalent Grades of Immigration Officers

Column 1 - Rank of constable	*Column 2 - Grade of immigration officer*
Sergeant	Immigration officer
Inspector	Chief immigration officer
Chief Inspector	Chief immigration officer
Superintendent	Immigration inspector

SCHEDULE 2

Regulation 12

PART 1

Provisions of the Order Applied to Investigations Conducted, and Persons Detained, by Designated Customs Officials

Article 10 (power of justice of the peace to authorise entry and search of premises) (subject to the modifications in regulation 17)

Article 11(1) (special provisions as to access to excluded or special procedure material) and Schedule 1 (special procedure)

Article 17 (search warrants—safeguards)

Article 18 (execution of warrants)

Article 19(1)(a)(i), (b), (ca), (d), (2) and (3) (entry for purpose of arrest etc.)

(**a**) Article 84 was substituted by S.I. 2008/1216 (N.I. 1).

Article 20(1) to (8) (entry and search after arrest) (subject to the modification in regulation 19)

Article 21 (general power of seizure etc.) (subject to the modification in regulation 18(1))

Article 22 (extension of powers of seizure to computerised information)

Article 23 (access and copying) (subject to the modification in regulation 18(3))

Article 24(1) to (4) and (7) (retention)

Article 26(1) to (5)(c)(iii) and (d) to (f) (arrest without warrant: constables) (subject to the modification in regulation 16)

Article 30 (information to be given on arrest)

Article 31 (voluntary attendance at police station etc.)

Article 32(1) to (4)(a) and (5) to (16) (arrest elsewhere than at police station) (subject to the modification in regulation 20)

Article 33 (arrest for further offence)

Article 34(1) to (9) (search upon arrest)

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

Article 36 (designated police stations) (subject to the modification in regulation 21)

Article 37(1) to (6)(c), (7) and (8) to (10) (custody officers at police stations) (subject to the modification in regulation 22)

Article 38 (duties of custody officer before charge)(**b**)

Article 40 (responsibilities in relation to persons detained)

Article 41(1) to (9) and (11) to (14) (review of police detention)(**c**)

Article 41A(1), (3) and (4) (use of telephone for review under Article 41)(**d**)

Article 42(1), (2)(a), (b) and (c) and (3) to (7) (limits on period of detention without charge) (subject to the modifications in regulation 23)

Article 43 (authorisation of continued detention) (subject to the modification in regulation 24)

Article 44 (warrants of further detention) (subject to the modification in regulation 25)

Article 45 (extension of warrants of further detention)

Article 47 (detention after charge)(**e**)

Article 47A(1) to (3) (power of arrest for failure to answer to police bail)

Article 50 (records of detention) (subject to the modification in regulation 26)

Article 51(b) and (d) (savings)

Article 53 (interpretation of Part VI)(**f**)

Article 55 (searches of detained persons) (subject to the modification in regulation 27)

(**a**) Article 35 has been amended by S.I. 1995/2993 (N.I. 17). There are other amendments, but none relevant to these Regulations.
(**b**) Article 38 has been amended by S.I. 1995/2993 (N.I. 17), S.I. 1998/1504 (N.I. 9) and S.I. 2007/288 (N.I. 2).
(**c**) Article 41 has been amended by S.I. 2007/288 (N.I. 2).
(**d**) Article 41A was inserted by S.I. 2007/288 (N.I. 2).
(**e**) Article 47 has been amended by paragraph 97(2) of Schedule 1 to the Justice Act (Northern Ireland) 2015 (c. 9) (N. I.).
(**f**) Article 53 has been amended by section 42 of the Police (Northern Ireland) Act 2003 (c. 6), paragraph 8 of Schedule 1 to the Extradition (Provisional Arrest) Act 2020 (c. 18), S.I. 2004/1771 and S.I. 2007/288 (N.I. 2).

Article 55A (searches and examination to ascertain identity)(**a**)

Article 56(1)(a), (2), (3), (5) to (8), (10) and (11) to (13), (14), (15) and (17) (intimate searches) (subject to the modification in regulation 28)

Article 57 (right to have someone informed when arrested)(**b**)

Article 59 (access to legal advice)(**c**)

Article 62(1) to (12) (intimate samples)

Article 63P(1) and (3) (destruction of samples) (subject to the modification in regulation 29 and the transitional provisions in regulation 30)

Article 63Q (use of retained material) (subject to the modification in regulation 29 and the transitional provision in regulation 30)

Article 63R (exclusion for certain regimes) (subject to the modification in regulation 29 and the transitional provision in regulation 30)

Article 84 (police officers performing duties of higher rank)

PART 2

Modifications: Substitution of Equivalent Words and Phrases in the Order

Column 1	*Column 2*
constable (all references)	designated customs official
designated police station (all references, except in Article 32)	designated customs office
designated police station (reference at Article 32)	designated police station or designated customs office
officer/police officer (except in Articles 18(10A) and 56(17) and except all references to custody officer, detention officer, review officer, immigration officer or officer of Revenue and Customs)	designated customs official
police custody (all references)	customs custody
police detention (all references in Articles 24 and 32)	police detention or customs detention
police detention (all other references, except for the second reference in Article 40(1)(a))	customs detention
police station/station (all references in Articles 20, 31, 32, 33 and 34)	police station or customs office
police station/station (all other references except for those in Article 47A)	customs office

(**a**) Article 55A was inserted by section 91 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) and subsequently amended by paragraph 3 of Schedule 3 to the Police (Northern Ireland) Act 2003 (c. 6) (N. I) and section 170(2) of the Extradition Act 2003 (c. 41).

(**b**) Article 57 has been amended by paragraph 20 of Schedule 4 to the Counter-Terrorism and Border Security Act 2019 (c. 3), paragraph 19 of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29), paragraph 5 of Schedule 18 to the National Security Act 2023, S.I. 1990/2588 (N.I. 17) and S.I. 2007/288 (N.I. 2).

(**c**) Article 59 has been amended by paragraph 20 of Schedule 4 to the Counter-Terrorism and Border Security Act 2019 (c. 3), paragraph 19 of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29), paragraph 5 of Schedule 18 to the National Security Act 2023, S.I. 1990/2588 (N.I. 17), and S.I. 2007/288 (N.I. 2).

Column 1	*Column 2*
rank (all references)	grade
the police (all references)	the Secretary of State, the Director of Border Revenue or designated customs officials

PART 3

Modifications: Equivalent Grades of Designated Customs Officials

Column 1 - Rank of constable	*Column 2 - Grade of designated customs official*
Sergeant	Officer
Inspector	Higher Officer
Chief Inspector	Higher Officer
Superintendent	Senior Officer

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply certain provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 S.I. 1989/1341 (N.I. 12) ("the Order"), subject to specified modifications, to investigations undertaken by immigration officers and designated customs officials and to persons detained by designated customs officials in Northern Ireland.

Part 2 of the Regulations (regulations 3 to 11) concern the application of provisions of the Order to investigations undertaken by immigration officers.

Regulation 3 applies the provisions of the Order contained in Schedule 1 to investigations conducted by immigration officers, subject to specified modifications. It also specifies the provisions of the Order in relation to which, when a person is detained by the police in connection with an investigations conducted by an immigration officer, references to police officer, constable or officer should include references to an immigration officer.

Regulation 4 provides that immigration officers do not have powers to charge a person, to release a person on bail or to detain them following charge.

Regulation 5 provides that powers and functions applied to immigration officers by the Regulations may only be exercised by immigration officers who are authorised to do so by the Secretary of State.

Regulation 6 sets out the circumstances in which an immigration officer may use reasonable force in the exercise of a power under the Order as applied by the Regulations.

Regulation 7 provides that the application of the power of arrest under Article 26(2) of the Order does not affect the powers of immigration officers in other legislation to arrest or detain a person.

Regulation 8 sets out the circumstances in which an immigration officer searching premises under the authority of a warrant issued under Article 10 of, or paragraph 9 of Schedule 1 to, the Order, as applied by the Regulations, may search persons found on the premises.

Regulation 9 sets out the circumstances in which an immigration officer may seize and retain things found during a lawful search carried out under a provision of the Order, as applied by the Regulations, and provides for modifications to take into account immigration officers' powers and functions under the Immigration Acts.

Regulation 10 modifies the Order as it applies to immigration officers to ensure that a record is included in a person's custody record of the grounds for, and the nature of evidence sought during, a search of the detained person's premises under Article 20 of the Order.

Regulation 11 modifies the Order as it is applied by these Regulations to provide that the powers of retention, as applied by the Order, do not affect the use of powers to dispose of property under section 26 of the UK Borders Act 2007.

Part 3 of the Regulations (regulations 12 to 29) concerns the application of provisions of the Order to investigations conducted by designated customs officials and persons detained by designated customs officials.

Regulation 12 applies the provisions of the Order listed in Schedule 2 to investigations conducted, and to persons detained, by designated customs officials, subject to specified modifications. It

specifies the provisions of the Order in relation to which, when a person is detained by the police in connection with an investigation conducted by designated customs officials, references to police officer, constable or officer should include references to a designated customs official and also specifies those provisions where references to transferring someone in police detention to another police area should be treated as including references to a transfer to a customs office.

Regulation 13 provides that designated customs officials do not have powers to charge a person or to release a person on bail.

Regulation 14 provides for the transfer of detained persons between different types of detention (customs, police and Revenue and Customs) as well as making provision as to how time spent in different types of detention should be aggregated. In addition, it provides that a designated customs official will only have the power to detain a person after charge in circumstances where the offence for which that person has been charged is a drugs offence and where that person is due to be brought before a magistrates' court for a remand into customs detention under section 152(1) of the Criminal Justice Act 1988.

Regulation 15 sets out the circumstances in which a designated customs official may use reasonable force in the exercise of a power under the Order as applied by these Regulations.

Regulation 16 provides that the application of the power of arrest under Article 26(2) of the Order does not affect the powers of designated customs officials in other legislation to arrest or detain a person.

Regulation 17 sets out the circumstances in which a designated customs official searching premises under the authority of a warrant issued under Article 10 of, or paragraph 9 of Schedule 1 to, the Order, as applied by the Regulations, may search persons found on the premises.

Regulation 18 sets out the circumstances in which designated customs officials may accept, seize and retain things found during a lawful search under a provision of the Order, as applied by these Regulations, and provides for modifications to take account of designated customs officials' powers and functions under customs and excise Acts.

Regulation 19 modifies the Order as it is applies to designated customs officials to ensure that a record is included in a person's custody record of the grounds for, and the nature of the evidence sought during, a search of the detained person's premises under Article 20 of the Order.

Regulation 20 modifies Article 32 of the Order as applied by these Regulations to take into account the fact that designated customs officials do not have powers to release a person on bail.

Regulation 21 modifies Article 36 of the Order as applied by these Regulations to enable the Secretary of State to designate the customs offices which are to be used to detain arrested persons.

Regulation 22 modifies Article 37 of the Order as applied by these Regulations to specify who may appoint a custody officer for a designated customs office.

Regulation 23 modifies Article 42 of the Order as applied by these Regulations to specify the time from which the period of detention of a person is to be calculated where that person is arrested outside Northern Ireland in relation to an investigation conducted by designated customs officials or where that person is transferred to a customs office for the purpose of investigating the offence for which they were arrested, in circumstances where that person has not yet been questioned in order to obtain evidence in relation to it.

Regulation 24 modifies Article 43 of the Order as applied by these Regulations, providing that when a person is held in customs detention and it is proposed to transfer that person to a different place of detention, the designated customs official determining whether or not to authorise keeping him in detention must have regard to the distance and the time the journey would take.

Regulation 25 modifies Article 44 of the Order as applied by these Regulations, providing that when a person is held in customs detention and a complaint made for further detention includes the proposal to transfer that person, the court should have regard to the distance and the time the journey would take.

Regulation 26 modifies Article 50 of the Order as applied by these Regulations, making provision for the keeping of records of detention and the publication of an annual report by the Secretary of State about customs detention.

Regulation 27 modifies Article 55 of the Order as applied by these Regulations to provide designated customs officials with the power to carry out a protective search of persons in customs detention.

Regulation 28 modifies Article 56 of the Order as applied by these Regulations to require the Secretary of State to keep records about intimate searches carried out by designated customs officials under that article and to publish information about such searches annually.

Regulation 29 provides that Articles 63P, 63Q and 63R of the Order, as applied by these Regulations, apply only in relation to intimate samples taken from a person under Article 62 as applied by these Regulations.

Part 4 of the Order (regulation 30) makes transitional provision in relation to Articles 63P, 63Q and 63R of the Order as applied by these Regulations, as these provisions have not yet been commenced.

Regulation 30 provides that the reference to Articles 63P, 63Q and 63R of the Order should be read as a reference to Article 64(1A), (1B), (3), (3AA), (3AB), (3AC), (3AD) and (7) of the Order until such time as Articles 63P, 63Q and 63R of the Order have been commenced. Until that time, regulation 30 also provides that Article 64 as applied by virtue of the transitional provision, applies only in relation to intimate samples taken from a person under Article 62 as applied by these Regulations.

Part 5 of the Order (regulations 31 and 32), which applies to England and Wales and Northern Ireland, repeals section 22 of the Borders, Citizenship and Immigration Act 2009 and makes consequential amendments to that Act.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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