
STATUTORY INSTRUMENTS

1995 No. 757

The Children's Evidence (Northern Ireland) Order 1995

Notices of transfer in certain cases involving children

4

4.—(1) If a person has been charged with an offence to which Article 81(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽¹⁾ applies (sexual offences and offences involving violence or cruelty) and the Director of Public Prosecutions for Northern Ireland is of the opinion—

- (a) that the evidence of the offence would be sufficient for the person charged to be committed for trial;
- (b) that a child who is alleged—
 - (i) to be a person against whom the offence was committed; or
 - (ii) to have witnessed the commission of the offence, will be called as a witness at the trial; and
- (c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded without delay by the Crown Court,

a notice (“notice of transfer”) certifying that opinion may be given by or on behalf of the Director to the magistrates' court in whose jurisdiction the offence has been committed.

(2) A notice of transfer shall be given before the magistrates' court—

- (a) has commenced hearing the evidence for the prosecution (other than a deposition relating to the arrest or to the remand of the accused) where the court is conducting a preliminary investigation, or
- (b) has begun to conduct a preliminary inquiry.

(3) On the giving of a notice of transfer the functions of the magistrates' court shall cease in relation to the case except as provided by paragraph 2 of Schedule 1 or by Article 29(2)(e) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981⁽²⁾.

(4) The decision to give a notice of transfer shall not be subject to appeal or liable to be questioned in any court.

(5) Schedule 1 (which makes further provision in relation to notices of transfer) shall have effect.

(6) In this Article “child” means a person who—

- (a) in the case of an offence falling within Article 81(3)(a) or (b) of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽³⁾, is under 14 years of age or, if he was under that age when any such video recording as is mentioned in Article 81A of that Order was made in respect of him, is under 15 years of age; or
- (b) in the case of an offence falling within Article 81(3)(c) of that Order, is under 17 years of age or, if he was under that age when any such video recording was made in respect of him, is under 18 years of age.

(1) 1989 NI 12

(2) 1981 NI 8

(3) 1989 NI 12

(7) Any reference in paragraph (6) to an offence falling within paragraph (a), (b) or (c) of Article 81(3) of that Order includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.