

SCHEDULES

SCHEDULE 1

Notices of Transfer: Procedure in Lieu of Committal

Applications for dismissal

4.—(1) Where a notice of transfer has been given, any person to whom the notice relates may, at any time before he is arraigned (and whether or not an indictment has been preferred against him), apply orally or in writing to the Crown Court sitting at the place specified by the notice of transfer as the proposed place of trial or at any place substituted for it by a direction mentioned in paragraph 2(4), for the charge, or any of the charges, in the case to be dismissed.

(2) The judge shall dismiss a charge (and accordingly quash a count relating to it in any indictment preferred against the applicant) which is the subject of any such application if it appears to him that the evidence against the applicant would not be sufficient for a jury properly to convict him.

(3) No oral application may be made under sub-paragraph (1) unless the applicant has given the Crown Court mentioned in that sub-paragraph written notice of his intention to make the application.

(4) Oral evidence may be given on such an application only with the leave of the judge or by his order; and the judge shall give leave or make an order only if it appears to him, having regard to any matters stated in the application for leave, that the interests of justice require him to do so.

(5) No leave or order under sub-paragraph (4) shall be given or made in relation to oral evidence from a child (within the meaning of Article 4) who is alleged—

- (a) to be a person against whom an offence to which the notice of transfer relates was committed; or
- (b) to have witnessed the commission of such an offence.

(6) If the judge gives leave permitting, or makes an order requiring, a person to give oral evidence, but that person does not do so, the judge may disregard any document indicating the evidence that he might have given.

(7) Dismissal of the charge, or all the charges, against the applicant shall have the same effect as a refusal by a magistrates' court to commit for trial, except that no further proceedings may be brought on a dismissed charge except by means of the presentment of an indictment such as is specified in paragraph (c), (d), (e) or (f) of section 2(2) of the Grand Jury (Abolition) Act (Northern Ireland) 1969⁽¹⁾.

(8) Crown Court Rules may make provision for the purposes of this paragraph and, without prejudice to the generality of this sub-paragraph, may make provision—

- (a) as to the time or stage in the proceedings at which anything required to be done is to be done (unless the court grants leave to do it at some other time or stage);
- (b) as to the contents and form of notices or other documents;
- (c) as to the manner in which evidence is to be submitted; and
- (d) as to persons to be served with notices or other material.

(1) 1969 c. 15 (N.I.)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.