

1989 No. 293

MAGISTRATES' COURTS

The Magistrates' Courts (Serious Fraud) (Notices of Transfer) Rules (Northern Ireland) 1989

Made 25th July 1989

Coming into operation 1st September 1989

The Lord Chancellor, in exercise of the powers conferred upon him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a) and of all other powers enabling him in that behalf, on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Serious Fraud) (Notices of Transfer) Rules (Northern Ireland) 1989 and shall come into operation on 1st September 1989.

Interpretation

2.—(1) In these Rules

“the Order” means the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(b), and a reference to an Article by number is a reference to the Article so numbered in the Order;

“notice of transfer” means a notice referred to in Article 3(1)(c).

(2) Any reference in these Rules to a form by number is a reference to that form so numbered in the Schedule to these Rules.

Transfer in custody

3. Where a magistrates' court, in exercise of the power conferred by Article 4(3), orders a person to be kept in custody, a warrant of commitment in Form 1 shall be issued.

Notification of enlargement of recognizance

4. Where a magistrates' court, in exercise of the power conferred by Article 4(6)(b), enlarges, in a surety's absence, a recognizance conditioned in accordance with Article 47(1)(b) or 48 of the Magistrates' Courts (Northern Ireland) Order 1981, the clerk of petty sessions shall notify the surety of the decision of the court and inform him that he is bound to secure that the person charged appears before the Crown Court.

(a) S.I. 1981/1675 (N.I. 26)

(b) S.I. 1988/1846 (N.I. 16)

Documents to be sent to Crown Court

5. As soon as practicable and in any event within seven days after a magistrates' court to which a notice of transfer has been given has discharged the functions reserved to it under Article 3(1) of the Order, the clerk of petty sessions shall send to the chief clerk of the Crown Court—

- (a) the complaint, if it is in writing;
- (b) any recognizance entered into by any person in connection with the proceedings, together with a note of any enlargement thereof;
- (c) any documents or exhibits produced in evidence before the court which have been retained by him;
- (d) a copy of any criminal aid certificate granted by the court;
- (e) a copy of any statement of means furnished under Article 32 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(a).

Dated 25th July 1989.

Mackay of Clashfern, C.

SCHEDULE

Rule 2

Form 1

Rule 3

CRIMINAL JUSTICE (SERIOUS FRAUD). (NORTHERN IRELAND) ORDER 1988
(Article 4)

Warrant of Commitment on transfer of case to Crown Court for trial under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988

of	Petty Sessions District of
Complainant	
of	County Court Division of
Accused	<i>(particulars and statute)</i>
Alleged offence:	The proceedings against the accused in respect of the above offence have been transferred to the Crown Court at <i>(address).</i>
Direction:	[You, [the sub-divisional commander of <i>(police sub-division)</i>], are hereby required to convey the accused to [prison] [young offenders centre] and there deliver the accused to the Governor thereof, together with this warrant.
	[You, the Governor of [prison] [young offenders centre] are hereby required to keep the accused in your custody and, unless the accused is released on bail in the meantime, to keep the accused until the accused is delivered in due course of law.]
[1] Bail:	After complying with the condition(s) specified in Schedule I hereto, the accused shall be released on bail subject to the condition(s) specified in Schedule II hereto, and with a duty to surrender to the custody of the Crown Court at the time and place for the time being appointed by that court.
This	Resident Magistrate
day of	[Clerk of Petty Sessions]
19	
To:—	
(a) the sub-divisional commander of	
<i>(police sub-division)</i> at	
<i>(sub-divisional headquarters);</i>	

(b) the Governor of HM [prison] [young offenders centre] at (address).

SCHEDULE I

(conditions to be complied with before release on bail)

To provide suret [y][ies] in the sum of £..... [each] to secure the accused's surrender to custody at the time and place appointed.[2]

SCHEDULE II

(conditions to be complied with after release on bail)

[2]

Notes:

[1] Delete if bail is not granted.

[2] Insert condition(s) as appropriate.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules provide for the procedure to be followed in magistrates' courts where a notice of transfer is given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 [S.I. 1988/1846 (N.I. 16)].

Rule 3 provides that where a magistrates' court has ordered that a person, to whom a notice of transfer relates, be kept in custody, a warrant of commitment (in Form 1) shall be issued.

Rule 4 provides that where a recognizance is enlarged in a surety's absence the clerk of petty sessions shall inform the surety of the court's decision.

Rule 5 provides for certain documents to be sent to the Crown Court by the magistrates' court to which a notice of transfer has been given.