



Criminal Justice Act 1987

1987 CHAPTER 38

PART I

FRAUD

Transfer of cases to Crown Court

4 Notices of transfer and designated authorities

(1) If—

- (a) a person has been charged with an indictable offence; and
- (b) in the opinion of an authority designated by subsection (2) below or of one of such an authority's officers acting on the authority's behalf the evidence of the offence charged—
 - (i) would be sufficient for the person charged to be committed for trial; and
 - (ii) reveals a case of fraud of such seriousness and complexity that it is appropriate that the management of the case should without delay be taken over by the Crown Court; and
- (c) before the magistrates' court in whose jurisdiction the offence has been charged begins to inquire into the case as examining justices the authority or one of the authority's officers acting on the authority's behalf gives the court a notice (in this Act referred to as a "notice of transfer") certifying that opinion,

the functions of the magistrates' court shall cease in relation to the case, except as provided by section 5(3) and (8) below and by section 28(7A) of the Legal Aid Act 1974.

(2) The authorities mentioned in subsection (1) above (in this Act referred to as "designated authorities") are—

- (a) the Director of Public Prosecutions;
- (b) the Director of the Serious Fraud Office;
- (c) the Commissioners of Inland Revenue;

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- (d) the Commissioners of Customs and Excise; and
 - (e) the Secretary of State.
- (3) A designated authority's decision to give notice of transfer shall not be subject to appeal or liable to be questioned in any court.

5 Notices of transfer-procedure

- (1) A notice of transfer shall specify the proposed place of trial and in selecting that place the designated authority shall have regard to the considerations to which section 7 of the Magistrates' Courts Act 1980 requires a magistrates' court committing a person for trial to have regard when selecting the place at which he is to be tried.
- (2) A notice of transfer shall specify the charge or charges to which it relates and include or be accompanied by such additional matter as regulations under subsection (9) below may require.
- (3) If a magistrates' court has remanded a person to whom a notice of transfer relates in custody, it shall have power, subject to section 4 of the Bail Act 1976 and regulations under section 22 of the Prosecution of Offences Act 1985—
- (a) to order that he shall be safely kept in custody until delivered in due course of law; or
 - (b) to release him on bail in accordance with the Bail Act 1976, that is to say, by directing him to appear before the Crown Court for trial;
- and where his release on bail is conditional on his providing one or more surety or sureties and, in accordance with section 8(3) of the Bail Act 1976, the court fixes the amount in which the surety is to be bound with a view to his entering into his recognizance subsequently in accordance with subsections (4) and (5) or (6) of that section, the court shall in the meantime make an order such as is mentioned in paragraph (a) of this subsection.
- (4) If the conditions specified in subsection (5) below are satisfied, a court may exercise the powers conferred by subsection (3) above without the person charged being brought before it in any case in which by virtue of section 128(3A) of the Magistrates' Courts Act 1980 it would have power further to remand him on an adjournment such as is mentioned in that subsection.
- (5) The conditions mentioned in subsection (4) above are—
- (a) that the person charged has given his written consent to the powers conferred by subsection (3) above being exercised without his being brought before the court; and
 - (b) that the court is satisfied that, when he gave his consent, he knew that the notice of transfer had been issued.
- (6) Where notice of transfer is given after the person charged has been remanded on bail to appear before examining justices on an appointed day, the requirement that he shall so appear shall cease on the giving of the notice, unless the notice states that it is to continue.
- (7) Where the requirement that a person charged shall appear before examining justices ceases by virtue of subsection (6) above, it shall be his duty to appear before the Crown Court 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 under section 76 of the Supreme Court Act 1981.

- (8) For the purposes of the Criminal Procedure (Attendance of Witnesses) Act 1965—
- (a) any magistrates' court for the petty sessions area for which the court from which a case was transferred sits shall be treated as examining magistrates; and
 - (b) a person whose written statement is tendered in evidence for the purposes of the notice of transfer shall be treated as a person who has been examined by the court.
- (9) The Attorney General—
- (a) shall by regulations make provision requiring the giving of a copy of a notice of transfer, together with a statement of the evidence on which any charge to which it relates is based—
 - (i) to the person charged; and
 - (ii) to the Crown Court sitting at the proposed place of trial; and
 - (b) may by regulations make such further provision in relation to notices of transfer, including provision as to the duties of a designated authority in relation to such notices, as appears to him to be appropriate.
- (10) The power to make regulations conferred by subsection (9) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) Any such regulations may make different provision with respect to different cases or classes of case.

6 Dismissal of transferred charge

- (1) Where notice of transfer has been given, the person charged may at any time before he is arraigned apply orally or in writing to the Crown Court for the charge to be dismissed on the ground that the evidence which has been disclosed would not be sufficient for a jury properly to convict him of it.
- (2) Subject to subsection (4) below, oral evidence may be given on the hearing of such an application only with leave of the judge.
- (3) The judge shall grant such leave 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.
- (4) The judge may order a person who has made a written statement which it is proposed to adduce in evidence to supplement that statement by oral evidence.
- (5) If—
- (a) the judge makes an order under subsection (4) above; and
 - (b) the written statement is submitted to the court,
- the statement shall not be admitted as evidence unless
- (i) the person who made it gives oral evidence; or
 - (ii) the judge gives leave for it to be admitted without his doing so.
- (6) In deciding whether to grant an application under this section the judge shall have regard—
- (a) to the evidence tendered by the prosecution;

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- (b) to any written or oral statement tendered by the defence in support of the application; and
 - (c) to any oral evidence on behalf of the prosecution or the defence given under this section,
- (7) A discharge under this section shall have the same effect as a refusal by examining magistrates to commit for trial, except that no further proceedings may thereafter be brought on the charge except by means of the preferment of a voluntary bill of indictment.