

Changes to legislation: Criminal Justice Act 1991, Paragraph 5 is up to date with all changes known to be in force on or before 22 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 6

NOTICES OF TRANSFER: PROCEDURE IN LIEU OF COMMITTAL

Extent Information

E1 Schedule 6 extends to England and Wales only except as mentioned in s. 102(4)-(6)

Textual Amendments

F1 Sch. 6 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), Sch. 3 para. 62(3), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5); [S.I. 2012/2574](#), art. 2(1)(c)(d)(2)(3), Sch. (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2) (with [S.I. 2013/1103](#), art. 4); [S.I. 2013/1103](#), art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)

Commencement Information

I1 Sch. 6 wholly in force at 1.10.1992, see s. 102(2)(3) and [S.I. 1992/333](#), art. 2(2), [Sch. 2](#)

Applications for dismissal

- 5 (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 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) above 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) above shall be given or made in relation to oral evidence from a child (within the meaning of section 53 of this Act) who is alleged—
- to be a person against whom an offence to which the notice of transfer relates was committed; or
 - to have witnessed the commission of such an offence.

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- (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 examining magistrates to commit for trial, except that no further proceedings may be brought on a dismissed charge except by means of the preferment of a voluntary bill of indictment.
- (8) [^{F2}Criminal Procedure 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.]

Textual Amendments

- F2** Words in Sch. 6 para. 5(8) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S. I. 2004/2035\)](#), art. 3, **Sch. para. 34**

Modifications etc. (not altering text)

- C1** Sch. 6 para. 5 modified (10.4.1995) by 1994 c. 33, **ss. 34(2)(b)(ii)(4)-(7)**, 36(2)(b)(ii)(3)-(8), 37(2)(b)(ii)(3)-(7), 38; S.I. 1995/721, **art. 2**, Sch.
 Sch. 6 para. 5 modified (3.2.1995) by 1984 c. 60, **s. 62(10)(aa)(ii)** (as inserted (3.2.1995) by 1994 c. 33, s. 168(3), **Sch. 9 para. 24**; S.I. 1995/127, art. 2(1), **Sch. 1** Appendix A)

Commencement Information

- I1** Sch. 6 wholly in force at 1.10.1992, see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24(2)(ba) inserted by [2013 c. 22 s. 26\(7\)](#)
- s. 46(3)(aa) substituted for word by [2008 c. 4 s. 33\(7\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 33(2)(4)(7)(8) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(a); S.I. 2012/2906, art. 2(d))
- s. 46ZA inserted by [2008 c. 4 s. 33\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 33(2)(4)(7)(8) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(a); S.I. 2012/2906, art. 2(d))