
STATUTORY INSTRUMENTS

1988 No. 1691

CRIMINAL LAW, ENGLAND AND WALES

The Criminal Justice Act 1987
(Notice of Transfer) Regulations 1988

<i>Made</i>	- - - -	<i>3rd October 1988</i>
<i>Laid before Parliament</i>		<i>4th October 1988</i>
<i>Coming into force</i>	- -	<i>31st October 1988</i>

The Attorney General, in exercise of the powers conferred on him by section 5(9) of the Criminal Justice Act 1987(1), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Criminal Justice Act 1987 (Notice of Transfer) Regulations 1988 and shall come into force on 31st October 1988.

Interpretation

2. In these Regulations—

“designated authority” means an authority designated by section 4(2) of the Criminal Justice Act 1987; and

“notice of transfer” means a notice given under section 4(1) of that Act.

Notice of transfer

3. A notice of transfer given by or on behalf of a designated authority shall be in Form 1 in the Schedule to these Regulations, or in a form to the like effect.

Notice to defendant

4. Where a notice of transfer is given by or on behalf of designated authority, a copy of the notice shall be given by or on behalf of the authority to any person to whom the notice of transfer relates (or, if he is acting by a solicitor, to his solicitor) together with —

(a) a notice in Form 2 in the Schedule to these Regulations, or in a form to the like effect; and

(1) 1987 c. 38. Section 5(9) was amended by section 144 of the Criminal Justice Act 1988 (c. 33).

- (b) a statement of the evidence on which any charge to which the notice of transfer relates is based.

Notice to Crown Court

5. Where a notice of transfer is given by or on behalf of a designated authority, a copy of the notice shall be given by or on behalf of the authority to the appropriate officer of the Crown Court sitting at the place specified by the notice of transfer as the proposed place of trial together with—

- (a) a copy of the notice referred to in paragraph (a) of regulation 4 above and copies of the material enclosed with that notice; and
- (b) the statement referred to in paragraph (b) of that regulation.

Notice to prison governor etc.

6. Where a notice of transfer is given by or on behalf of a designated authority, a copy of the notice shall be given by or on behalf of the authority to any person who has custody of any person to whom the notice of transfer relates together with a copy of the notice referred to in paragraph (a) of regulation 4 above.

3rd October 1988

P. B. B. Mayhew
Her Majesty's Attorney General

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SCHEDULE

Regulations 3 and 4

FORM 1 CRIMINAL JUSTICE ACT 1987 THE QUEEN v NOTICE OF TRANSFER OF CASE TO THE CROWN COURT

To the Clerk to the Justices

Magistrates' Court

1. I am [an officer of] [acting on behalf of him/them].

2. has/have been charged with the indictable offence/offences specified in the Schedule of Charges attached to this Form.

3. The Magistrates' Court in whose jurisdiction the offence/offences has/have been charged has not begun to enquire into the case as examining justices.

- 4. I certify that in my opinion the evidence of the offence/offences charged –
 - (a) would be sufficient for to be committed for trial, and
 - (b) 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.

5. Accordingly, the functions of the Magistrates' Court cease in relation to the case, except as provided by section 5(3), (7A) and (8) of the Criminal Justice Act 1987 and by section 28(7A) of the Legal Aid Act 1974(a).

6. The proposed place of trial is the Crown Court sitting at

[Where this notice relates to more than one person, paragraph 7 below is to be completed in respect of each person to whom it relates.]

7. was on the day of 19 remanded in custody to appear at Magistrates' Court on the day of 19. Notice has been given to him requesting him to indicate whether he consents to the Court exercising its powers under section 5(3) of the Criminal Justice Act 1987 without his being brought before the Court.

or

7. was on the day of 19 remanded on bail to appear at Magistrates' Court on the day of 19. [Notice has been given to him that this requirement has now ceased but that it is his duty to appear before the Crown Court sitting at , or at such other place as shall be notified to him, on a date to be notified to him.] [Notice has been given to him that this requirement continues.]

8. I propose to invite the Magistrates' Court to make an order under section 1 of the Criminal Procedure (Attendance of Witnesses) Act 1965(b) in respect of each of the witnesses listed in the Schedule of Proposed Witnesses attached to this Form.

Dated this day of 19 .

Name
Title

SCHEDULE OF CHARGES

SCHEDULE OF PROPOSED WITNESSES

FORM 2 CRIMINAL JUSTICE ACT 1987 THE QUEEN v NOTICE TO PERSON TO WHOM A NOTICE OF TRANSFER RELATES

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To _____ of _____

1. Under section 4 of the Criminal Justice Act 1987 I have given to Magistrates' Court a notice of transfer in relation to the charges specified in the notice, a copy of which is attached. Accordingly, the case is transferred to the Crown Court. The proposed place of trial is the Crown Court sitting at _____

2. The Crown Court may give directions altering the place of trial. If you are dissatisfied with the proposed place of trial stated in the notice of transfer, or the place of trial as substituted by a direction of the Crown Court, you may apply to the Crown Court to vary the place of trial.

3. On the _____ day of _____ 19____ Magistrates' Court remanded you in custody to appear on the _____ day of _____ 19____. [The Court later granted you bail subject to certain conditions which you failed to meet, and accordingly you have remained in custody to appear on that day.] Under section 5(3) of the Criminal Justice Act 1987 the Magistrates' Court has power –

- (a) to order that you shall be safely kept in custody until delivered in due course of law, or
- (b) to release you on bail in accordance with the Bail Act 1976(a), that is to say, by directing you to appear before the Crown Court for trial.

The Magistrates' Court may exercise those powers without your being brought before the Court if –

- (a) you have given your written consent, and
- (b) the Court is satisfied that, when you gave your consent, you knew that the notice of transfer had been issued.

You may give your consent by signing the attached form of consent and passing it to the prison governor for him to send it to the Magistrates' Court by the _____ day of _____ 19____ (the date of your next appearance).

or

3. On the _____ day of _____ 19____ Magistrates' Court remanded you on bail to appear on the _____ day of _____ 19____. That requirement has ceased and in accordance with section 5(7) of the Criminal Justice Act 1987 it is your duty to appear before the Crown Court sitting at _____, or at such other place as may be notified to you, on a date to be notified to you.

or

3. On the _____ day of _____ 19____ Magistrates' Court remanded you on bail to appear on the _____ day of _____ 19____. You are required to so appear notwithstanding the giving of the notice of transfer.

4. The bill of indictment against you may include, either in substitution for or in addition to any count charging an offence specified in the notice of transfer, any counts founded on evidence set out in the material that accompanies this notice, being counts which may lawfully be joined in the same indictment.

5. I enclose a list of witnesses –

- (a) indicating those whom the Crown proposes to call to give oral evidence at your trial (and in whose case the Magistrates' Court will be invited to make a witness order under section 1(1) of the Criminal Procedure (Attendance of Witnesses) Act 1965); and
- (b) indicating those whose attendance at your trial the Crown considers unnecessary on the ground that their evidence is unlikely to be required or unlikely to be disputed (and in whose case the Magistrates' Court will be invited to make a conditional witness order under section 1(2) of that Act),

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the form of notice of transfer under section 4 of the Criminal Justice Act 1987. That is the notice which is sent to a magistrates' court before the start of committal proceedings by or on behalf of a designated authority (as defined in that section, for example, the Director of the Serious Fraud Office) and which has the effect of transferring the case to the Crown Court. The Regulations require copies of the notice to be sent to the defendant, the Crown Court and (if the defendant is in custody) the prison governor.

The Regulations also provide for a form to be sent to the defendant informing him of the effect of the notice of transfer and seeking his consent to the exercise by the magistrates' court of certain powers in his absence. Copies of this form are required to be sent to the Crown Court and (if the defendant is in custody) the prison governor.