
STATUTORY INSTRUMENTS

1992 No. 1670

CRIMINAL LAW, ENGLAND AND WALES

The Criminal Justice Act 1991
(Notice of Transfer) Regulations 1992

<i>Made</i>	- - - -	<i>13th July 1992</i>
<i>Laid before Parliament</i>		<i>13th July 1992</i>
<i>Coming into force</i>	- -	<i>1st October 1992</i>

The Attorney General, in exercise of the powers conferred on him by section 53(5) of and paragraph 4 of Schedule 6 to the Criminal Justice Act 1991(1), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Criminal Justice Act 1991 (Notice of Transfer) Regulations 1992 and shall come into force on 1st October 1992.

(2) In these Regulations—

“the Director” means the Director of Public Prosecutions;

“notice of transfer” means a notice served under section 53(1) of the Criminal Justice Act 1991.

Notice of transfer

2. A notice of transfer served by or on behalf of the Director shall be in Form 1 in the Schedule to these Regulations, or in a form to the like effect.

Notice to defendant

3. Where a notice of transfer is served by or on behalf of the Director, a copy of the notice shall be given by or on behalf of the Director 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
- (b) a statement of the evidence on which any charge to which the notice of transfer relates is based.

Notice to Crown Court

4. Where a notice of transfer is served by or on behalf of the Director, a copy of the notice shall be given by or on behalf of the Director 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 3 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.

5. Where a notice of transfer is served by or on behalf of the Director, a copy of the notice shall be given by or on behalf of the Director 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 3 above.

13th July 1992

Nicholas Lyell
Her Majesty's Attorney General

SCHEDULE

Regulations 2 and 3

FORM 1

CRIMINAL JUSTICE ACT 1991

THE QUEEN

v

NOTICE OF TRANSFER OF CASE TO THE CROWN COURT

To the Clerk to the Justices Magistrates' Court

1. I am [a Crown Prosecutor] [acting on behalf of the Director of Public Prosecutions]
2. has/have been charged with the offence/offences specified in the Schedule of Charges attached to this Form, being an offence/offences to which section 32(2) of the Criminal Justice Act 1988(a) applies.
3. The Magistrates' Court has not begun to enquire into the case as examining justices.
4. I certify that [in my opinion]—[the opinion of the Director of Public Prosecutions]
 - (a) the evidence of the offence/offences charged would be sufficient for to be committed for trial;
 - (b) a child(b) who is alleged [to be a person against whom the offence/offences was/were committed] [to have witnessed the commission of the offence/offences] will be called as a witness at the trial; and
 - (c) for the purposes of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded with without delay by the Crown Court.
5. Accordingly, the functions of the Magistrates' Court cease in relation to the case, except as provided by paragraphs 2 and 3 of Schedule 6 to the Criminal Justice Act 1991 and by section 20(4) of the Legal Aid Act 1988(c).
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 paragraph 2 of Schedule 6 to the Criminal Justice Act 1991 without his being brought before the Court.

(a) 1988 c.42.
(b) In this form "child" has the meaning given in section 53(6) of the Criminal Justice Act 1991.
(c) 1988 c.34; section 20(4) was extended by the Criminal Justice Act 1991 (c.53) Schedule 6, paragraph 9.

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FORM 2

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CRIMINAL JUSTICE ACT 1991

THE QUEEN

v

NOTICE TO PERSON TO WHOM A NOTICE OF TRANSFER RELATES

To of

1. Under section 53 of the Criminal Justice Act 1991 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 paragraph 2(1) of Schedule 6 to the Criminal Justice Act 1991 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 paragraph 2(6) of Schedule 6 to the Criminal Justice Act 1991 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 so to 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 material that accompanies the copy of that notice given to you, 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),

(a) 1976 c.63.

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together with in each case copies of the statements or other documents outlining the evidence of those witnesses or any video recording(s) which it is proposed to tender in evidence.

6. I also enclose a list of the exhibits in your case together with copies of those exhibits which are in documentary form.

7. At any time before you are arraigned at the Crown Court you may apply orally or in writing to the Crown Court for the charge/any of the charges to be dismissed on the ground that the evidence which has been disclosed is not sufficient for a jury properly to convict you of it. If you wish to apply for the charge/any of the charges to be dismissed, you should make a written application not later than 14 days after the day on which the notice of transfer was given or give written notice within the same period of your intention to do so orally, in accordance with the requirements of the Criminal Justice Act 1991 (Dismissal of Transferred Charges) Rules 1992(a). These periods may be extended on application to the Crown Court.

Dated this day of 19 .

Name
Title

