



Criminal Justice Act 1988

1988 CHAPTER 33

PART XI

MISCELLANEOUS

Serious fraud

143 Assistance to Isle of Man and Channel Islands

In subsection (1) of section 2 of the Criminal Justice Act 1987 (investigation powers of Director of Serious Fraud Office) after the word “above,” there shall be inserted the words “or, on a request made by the Attorney General of the Isle of Man, Jersey or Guernsey, under legislation corresponding to that section and having effect in the Island whose Attorney General makes the request,”.

144 Transferred charges

- (1) The Criminal Justice Act 1987 shall be amended as follows.
- (2) In section 4(1) (under which, on a notice of transfer in a fraud case, the functions of a magistrates' court, subject to certain exceptions, cease in relation to the case) after “5(3)” there shall be inserted “, (7A)”.
- (3) In section 5 (notices of transfer—procedure)—
 - (a) in subsection (4), for the words “without the person charged” there shall be substituted the words “in relation to a person charged without his”;
 - (b) in subsection (5)(a), for the word “charged” there shall be substituted the words “in question”;
 - (c) in subsection (6)—
 - (i) for the words “the person charged” there shall be substituted the words “a person to whom it relates”; and
 - (ii) for the words “examining justices” there shall be substituted the words “a magistrates' court”;

Status: This is the original version (as it was originally enacted).

- (d) in subsection (7)—
 - (i) for the word “charged” there shall be substituted the words “to whom the notice of transfer relates”; and
 - (ii) for the words “examining justices” there shall be substituted the words “a magistrates’ court”;
 - (e) in subsection (8)(b), for the words “whose written statement is tendered in evidence for the purposes of the notice of transfer” there shall be substituted the words “indicated in the notice of transfer as a proposed witness;” and
 - (f) in subsection (9)(a)—
 - (i) in sub-paragraph (i), for the words “the person charged” there shall be substituted the words “any person to whom the notice of transfer relates”; and
 - (ii) in sub-paragraph (ii), after the word “the”, in the second place where it occurs, there shall be inserted the words “place specified by the notice of transfer as the”.
- (4) The following subsection shall be inserted after section 5(7)—
- “(7A) If the notice states that the requirement is to continue, when a person to whom the notice relates appears before the magistrates’ court, the court shall have—
- (a) the powers and duty conferred on a magistrates’ court by subsection (3) above, but subject as there provided; and
 - (b) power to enlarge, in the surety’s absence, a recognizance conditioned in accordance with section 128(4)(a) of the Magistrates’ Courts Act 1980 so that the surety is bound to secure that the person charged appears also before the Crown Court.”.

(5) The following section shall be substituted for section 6—

“6 Applications for dismissal

- (1) Where notice of transfer has been given, any person to whom the notice relates, at any time before he is arraigned (and whether or not an indictment has been preferred against him), may 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; and the judge shall dismiss a charge (and accordingly quash a count relating to it in any indictment preferred against the applicant) if it appears to him that the evidence against the applicant would not be sufficient for a jury properly to convict him.
- (2) No oral application may be made under subsection (1) above unless the applicant has given the Crown Court sitting at the place specified by the notice of transfer as the proposed place of trial written notice of his intention to make the application.
- (3) 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.

- (4) If the judge gives leave permitting, or makes an order requiring, a person to give oral evidence, but he does not do so, the judge may disregard any document indicating the evidence that he might have given.
- (5) 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.
- (6) Crown Court Rules may make provision for the purposes of this section and, without prejudice to the generality of this subsection—
 - (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.”.

145 Power to petition for winding-up etc. on information obtained on investigation by Director of Serious Fraud Office

The words “or section 2 of the Criminal Justice Act 1987” shall be inserted—

- (a) in section 440 of the Companies Act 1985, after the words “that Act”;
- (b) in section 8(1) of the Company Directors Disqualification Act 1986, after the words “the Financial Services Act 1986”, in the second place where they occur; and
- (c) in Article 433 of the Companies (Northern Ireland) Order 1986, after the words “that Act”.