
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 153

CRIMINAL PROCEDURE

**The Children's Evidence (Northern Ireland)
Order 1995 (Notice of Transfer) Regulations 1996**

Made - - - - 2nd April 1996

To be laid before Parliament

Coming into operation 31st May 1996

The Attorney General, in exercise of the powers conferred on him by Article 4(5) of and paragraph 3 of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995(1), hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Children's Evidence (Northern Ireland) Order 1995 (Notice of Transfer) Regulations 1996 and shall come into operation on 31st May 1996.

Interpretation

2. In these regulations—

“the Director” means the Director of Public Prosecutions for Northern Ireland.

“notice of transfer” means a notice given under Article 4(1) of the Children's Evidence (Northern Ireland) Order 1995.

Notice of transfer

3. A notice of transfer given by or on behalf of the Director, shall be in Form 1 in the Schedule.

Notice to defendant

4. Where a notice of transfer is given 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; and

- (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 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 4 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 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 4.

2nd April 1996

Nicholas Lyell
Her Majesty's Attorney General

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SCHEDULE

Regulations 3 and 4

Form 1 **Children's Evidence (Northern Ireland) Order 1995**

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THE QUEEN

v

NOTICE OF TRANSFER OF CASE TO THE CROWN COURT

To the clerk of petty sessions Magistrates' Court

1. I am [a professional officer of the Department of] the Director of Public Prosecutions for Northern Ireland [acting on behalf of the Director].

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 Article 81(3) of the Police and Criminal Evidence (Northern Ireland) Order 1989(a) applies.

3. The magistrates' court in whose jurisdiction the offence/offences has/have been committed has not—

- (a) commenced hearing the evidence for the prosecution (other than a deposition relating to the arrest or to the remand of the accused), where the court is conducting a preliminary investigation; or
(b) begun to conduct a preliminary inquiry.

4. I certify that [in my opinion] [the opinion of the Director]—

- (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 paragraph 2(1), (2) and (5) of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995 and by Article 29(2)(e) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(e).

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

[Where this notice relates to more than one person, paragraph 7 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 .

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.]

Dated this day of 19 .

Name

Title

SCHEDULE OF CHARGES

(a) S.I. 1989/1341 (N.I. 12)
(b) In this form "child" has the meaning given in Article 4(6) of the Children's Evidence (Northern Ireland) Order 1995
(c) S.I. 1981/228 (N.I. 8)

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Form 2 Children's Evidence (Northern Ireland) Order 1995

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THE QUEEN

v

NOTICE TO PERSON TO WHOM A NOTICE OF TRANSFER RELATES

To _____ of _____

1. Under Article 4 of the Children's Evidence (Northern Ireland) Order 1995 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____. [You were granted bail but you are now lawfully in custody to appear on that day.] Under paragraph 2(1) of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995 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, that is to say, by directing you to appear before the Crown Court for trial.

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(4) of Schedule 1 to the Children's Evidence (Northern Ireland) Order 1995 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 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) a list of the witnesses together with copies of the statements or other documents outlining the evidence of those witnesses and/or concise particulars of any video recording(s) which it is proposed to tender in evidence; and
- (b) a list of the exhibits in your case together with copies of the exhibits which are in documentary form.

The evidence on which the charge/charges against you is/are based is contained in the statements, video recording(s) and exhibits mentioned in (a) and (b) above.

6. 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 notice within the same period of your intention to do so orally, in accordance with the requirements of the Crown Court (Children's Evidence) (Dismissal of Transferred Charges) Rules (Northern Ireland) 1996(a). These periods may be extended on application to the Crown Court.

7. At your trial you may not be permitted to adduce evidence of an alibi unless you give notice of particulars of the alibi in accordance with section 1 of the Evidence of Alibi Act (Northern Ireland) 1972(a). Such notice should be given to me within 7 days of the giving of the notice of transfer.

Dated this _____ day of _____ 19____.

Name

Title

(a) S.R. 1996 No. 70 (a) 1972 c. 6 (N.I.)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations provide for the form of notice of transfer under Article 4 of the Children's Evidence (Northern Ireland) Order 1995. That is the notice which is sent to a magistrates' court before the start of committal proceedings by or on behalf of the Director of Public Prosecutions 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. Copies of this form are required to be sent to the Crown Court and the prison governor or other person having custody of the defendant.