



Criminal Justice Act 1987

1987 CHAPTER 38

PART I

FRAUD

Transfer of cases to Crown Court

4 Notices of transfer and designated authorities.

[^{F1}(1) If—

- (a) a person has been charged with an indictable offence; and
- (b) in the opinion of an authority designated by subsection (2) below or of one of such an authority's officers acting on the authority's behalf the evidence of the offence charged—
 - (i) would be sufficient for the person charged to be committed for trial; and
 - (ii) 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; and
- (c) before the magistrates' court in whose jurisdiction the offence has been charged begins to inquire into the case as examining justices the authority or one of the authority's officers acting on the authority's behalf gives the court a notice (in this Act referred to as a "notice of transfer") certifying that opinion,

the functions of the magistrates' court shall cease in relation to the case, except as provided by section 5(3) [^{F2}, (7A)] and (8) below and by [^{F3}regulations under section 19 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012].

(2) The authorities mentioned in subsection (1) above (in this Act referred to as "designated authorities") are—

- (a) the Director of Public Prosecutions;
- (b) the Director of the Serious Fraud Office;
- (c) the Commissioners of Inland Revenue;

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- (d) the Commissioners of Customs and Excise; and
 - (e) the Secretary of State.
- (3) A designated authority's decision to give notice of transfer shall not be subject to appeal or liable to be questioned in any court.
- [^{F4}(4) This section and sections 5 and 6 below shall not apply in any case in which section 51 of the Crime and Disorder Act 1998 (no committal proceedings for indictable-only offences) applies.]]

Textual Amendments

- F1** Ss. 4-6 repealed (18.6.2012 for specified purposes, 5.11.2012 for specified purposes, 28.5.2013 for specified purposes) by [Criminal Justice Act 2003 \(c. 44\)](#), s.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. 58\(2\)](#), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), [Sch.](#) (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2); [S.I. 2013/1103](#), art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F2** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(2), [Sch. 8 para. 16](#)
- F3** Words in s. 4(1) substituted (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 5 para. 35](#); [S.I. 2013/453](#), art. 3(h) (with savings and transitional provisions in [S.I. 2013/534](#), art. 6)
- F4** S. 4(4) inserted (4.1.1999 for specified purposes and otherwise 15.1.2001) by [1998 c. 37](#), s. 119, [Sch. 8 para. 65](#); [S.I. 1998/2327](#), art. 4(2)(c); [S.I. 2000/3283](#), art. 2(c) (subject to art. 3)

5 Notices of transfer— procedure.

- [^{F1}(1) A notice of transfer shall specify the proposed place of trial and in selecting that place the designated authority shall have regard to the considerations to which section 7 of the ^{M1}Magistrates' Courts Act 1980 requires a magistrates' court committing a person for trial to have regard when selecting the place at which he is to be tried.
- (2) A notice of transfer shall specify the charge or charges to which it relates and include or be accompanied by such additional matter as regulations under subsection (9) below may require.
- (3) If a magistrates' court has remanded a person to whom a notice of transfer relates in custody, it shall have power, subject to section 4 of the ^{M2}Bail Act 1976 and regulations under section 22 of the ^{M3}Prosecution of Offences Act 1985—
- (a) to order that he shall be safely kept in custody until delivered in due course of law; or
 - (b) to release him on bail in accordance with the Bail Act 1976, that is to say, by directing him to appear before the Crown Court for trial;
- and where his release on bail is conditional on his providing one or more surety or sureties and, in accordance with section 8(3) of the Bail Act 1976, the court fixes the amount in which the surety is to be bound with a view to his entering into his recognizance subsequently in accordance with subsections (4) and (5) or (6) of that section, the court shall in the meantime make an order such as is mentioned in paragraph (a) of this subsection.
- (4) If the conditions specified in subsection (5) below are satisfied, a court may exercise the powers conferred by subsection (3) above [^{F5}in relation to a person charged without his] being brought before it in any case in which by virtue of section 128(3A) of the

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- ^{M4}Magistrates' Courts Act 1980 it would have power further to remand him on an adjournment such as is mentioned in that subsection.
- (5) The conditions mentioned in subsection (4) above are—
- (a) that the person [^{F6}in question] has given his written consent to the powers conferred by subsection (3) above being exercised without his being brought before the court; and
 - (b) that the court is satisfied that, when he gave his consent, he knew that the notice of transfer had been issued.
- (6) Where notice of transfer is given after [^{F7}a person to whom it relates] has been remanded on bail to appear before [^{F8}a magistrates' court] on an appointed day, the requirement that he shall so appear shall cease on the giving of the notice, unless the notice states that it is to continue.
- (7) Where the requirement that a person [^{F9}to whom the notice of transfer relates] shall appear before [^{F10}a magistrates' court] ceases by virtue of subsection (6) above, it shall be his duty to appear before the Crown Court at the place specified by the notice of transfer as the proposed place of trial or at any place substituted for it by a direction under section 76 of the ^{M5}[^{F11}Senior Courts Act 1981].
- [^{F12}(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.]
- (8) For the purposes of the ^{M6}Criminal Procedure (Attendance of Witnesses) Act 1965—
- (a) any magistrates' court for the petty sessions area for which the court from which a case was transferred sits shall be treated as examining magistrates; and
 - (b) a person [^{F13}indicated in the notice of transfer as a proposed witness;] shall be treated as a person who has been examined by the court.
- (9) The Attorney General—
- (a) shall by regulations make provision requiring the giving of a copy of a notice of transfer, together with [^{F14}copies of the documents containing the evidence (including oral evidence)] on which any charge to which it relates is based—
 - (i) to [^{F15}any person to whom the notice of transfer relates]; and
 - (ii) to the Crown Court sitting at the [^{F16}place specified by the notice of transfer as the] proposed place of trial; and
 - (b) may by regulations make such further provision in relation to notices of transfer, including provision as to the duties of a designated authority in relation to such notices, as appears to him to be appropriate.
- [^{F17}(9A) Regulations under subsection (9)(a) above may provide that there shall be no requirement for copies of documents to accompany the copy of the notice of transfer if they are referred to, in documents sent with the notice of transfer, as having already been supplied.]

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- (10) The power to make regulations conferred by subsection (9) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) Any such regulations may make different provision with respect to different cases or classes of case.]

Textual Amendments

- F1** Ss. 4-6 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. 58\(2\)](#), [Sch. 37 Pt. 4](#); [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), [Sch. \(with arts. 3, 4\)](#) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2); [S.I. 2013/1103](#), art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F5** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(3)(a), [Sch. 8 para. 16](#)
- F6** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(3)(b), [Sch. 8 para. 16](#)
- F7** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(3)(c)(i), [Sch. 8 para. 16](#)
- F8** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(3)(c)(ii), [Sch. 8 para. 16](#)
- F9** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), [s. 144\(3\)\(d\)\(i\)](#)
- F10** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(3)(d)(ii), [Sch. 8 para. 16](#)
- F11** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 1\(2\)](#); [S.I. 2009/1604](#), art. 2(d)
- F12** S. 5(7A) inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(4), [Sch. 8 para. 16](#)
- F13** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(3)(e), [Sch. 8 para. 16](#)
- F14** Words in s. 5(9)(a) substituted (4.7.1996 with application as mentioned in s. 45(8) of the substituting Act on or after 1.4.1998) by [1996 c. 25, s. 45\(2\)\(8\)](#)(with s. 78(1)); [S.I. 1998/851](#), [art.2](#).
- F15** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(3)(f)(i), [Sch. 8 para. 16](#)
- F16** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(3)(f)(ii), [Sch. 8 para. 16](#)
- F17** S. 5(9A) inserted (4.7.1996 with application as mentioned in s. 45(8) of the inserting Act on or after 1.4.1998) by [1996 c. 25, s. 45\(3\)\(8\)](#)(with s. 78(1)); [S.I. 1998/851](#), [art.2](#).

Marginal Citations

- M1** 1980 c. 43.
- M2** 1976 c. 63.
- M3** 1985 c. 23.
- M4** 1980 c. 43.
- M5** 1981 c. 54.
- M6** 1965 c. 69.

[^{F186} Applications for dismissal.

[^{F1}(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.

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- (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) [^{F19}Criminal Procedure 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.]]

Textual Amendments

- F1** Ss. 4-6 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. 58(2), **Sch. 37 Pt. 4**; [S.I. 2012/1320](#), art. 4(1)(c)(d)(2)(3) (with art. 5); [S.I. 2012/2574](#), art. 2(2)(3)(c)(d), Sch. (with arts. 3, 4) (as amended (4.11.2012) by [S.I. 2012/2761](#), art. 2); [S.I. 2013/1103](#), art. 2(1)(c)(d)(2)(3) (with arts. 3, 4)
- F18** S. 6 substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 144(5), **Sch. 8 para. 16**
- F19** Words in s. 6(6) substituted (1.9.2004) by [The Courts Act 2003 \(Consequential Amendments\) Order 2004 \(S.I. 2004/2035\)](#), art. 2(1), **Sch. para. 22** (with art. 2(2))

Modifications etc. (not altering text)

- C1** S. 6 modified (10.4.1995) by [1994 c. 33](#), **ss. 34(2)(b)(i)(4)-(7)**, 36(2)(b)(i)(3)-(8), 37(2)(b)(i)(3)-(7), 38; [S.I. 1995/721](#), **art. 2**, Sch.
- S. 6 modified (3.2.1995) by [1984 c. 60](#), **s. 62(10)(aa)** (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)

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