1989 No. 338

CRIMINAL PROCEDURE

The Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (Notice of Transfer) Regulations 1989

Made	*14th August 1989*
Coming into operation . .	*14th August 1989*
Laid before Parliament	*1st September 1989*

The Attorney General, in exercise of the powers conferred on him by Article 4(7) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988(**a**), hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (Notice of Transfer) Regulations 1989 and shall come into operation on 1st September 1989.

Interpretation

2. In these regulations—

"designated authority" means an authority designated by Article 3(2) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988; and

"notice of transfer" means a notice given under Article 3(1) of that Order.

Notice of transfer

3. A notice of transfer given by or on behalf of a designated authority shall be in Form 1.

Notice to defendant

4. 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 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; and

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

(a) S.I. 1988/1846 (N.I. 16)

Notice to Crown Court

5. Where a notice of transfer is given by or on behalf 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 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.

P. B. B. Mayhew

14th August 1989 Her Majesty's Attorney General

SCHEDULE regulations 3 and 4

FORM 1

Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988

THE QUEEN

v

NOTICE OF TRANSFER OF CASE TO THE CROWN COURT

To the clerk of petty sessions 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 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 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 Article 4(3) and (6) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 and by Article 29(2)(*c*) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.

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 Article 4(3) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 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. Each of the witnesses listed in the Schedule of Proposed Witnesses will be required to attend and give evidence before the Crown Court.

Dated this day of 19 .

Name

Title

SCHEDULE OF CHARGES

SCHEDULE OF PROPOSED WITNESSES

FORM 2

Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988

THE QUEEN

v

NOTICE TO PERSON TO WHOM A NOTICE OF TRANSFER RELATES

To of

1. Under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 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 Article 4(3) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 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.

The magistrates' court may exercise those powers without you 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 Article 4(5) of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 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 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 whom the Crown proposes to call to give oral evidence at your trial; and

(*b*) a list of the witnesses 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,

together with in each case copies of the statements or other documents outlining the evidence of those witnesses.

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 28 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 Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 (Dismissal of Transferred Charges) Rules (Northern Ireland) 1988. These periods may be extended on application to the Crown Court.

8. 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) 1971. 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

FORM 3

Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988

THE QUEEN

v

CONSENT FORM FOR PERSON REMANDED IN CUSTODY

To the clerk of petty sessions Magistrates' Court

I have received a copy of a notice of transfer issued under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 relating to my case.

I hereby consent to the Magistrates' Court exercising its powers under Article 4(3) of that Order without my being brought before it. (Those powers are described in paragraph 3 of the notice issued to me entitled ''Notice to Person to whom a Notice of Transfer relates''.)

Dated this day of 19 .

Signed

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations provide for the form of the notice of transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988. 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 Article, 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.

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These Orders have been exempted from printing by the Statutory Rules (Northern Ireland) Order 1979. Summaries are given in the List of Statutory Rules of a Local Character under the heading ROADS.