
STATUTORY INSTRUMENTS

1995 No. 757

The Children's Evidence (Northern Ireland) Order 1995

Notices of transfer in certain cases involving children

4. —

4.—(1) If a person has been charged with an offence to which^[F1] paragraph (1A)] applies (sexual offences and offences involving violence or cruelty) and the Director of Public Prosecutions for Northern Ireland is of the opinion—

- (a) that the evidence of the offence would be sufficient for the person charged to be committed for trial;
- (b) that a child who is alleged—
 - (i) to be a person against whom the offence was committed; or
 - (ii) to have witnessed the commission of the offence, will be called as a witness at the trial; and
- (c) that, for the purpose of avoiding any prejudice to the welfare of the child, the case should be taken over and proceeded without delay by the Crown Court,

a notice (“notice of transfer”) certifying that opinion may be given by or on behalf of the Director to the magistrates' court in whose jurisdiction the offence has been committed.

^[F2](1A) This paragraph applies to—

- (a) an offence which involves an assault on, or injury or threat of injury to, a person;
- (b) an offence under section 20 of the Children and Young Persons Act (Northern Ireland) 1968;
- (c) a sexual offence (within the meaning of Part IX of the Police and Criminal Evidence (Northern Ireland) Order 1989); and
- (d) an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within subparagraph (a), (b) or (c).]

(2) A notice of transfer shall be given before the magistrates' court—

^{F3}(a)

(b) has begun to conduct a preliminary inquiry.

(3) On the giving of a notice of transfer the functions of the magistrates' court shall cease in relation to the case except as provided by paragraph 2 of Schedule 1 or by ^[F4]any regulations under Article 26(3) of the Access to Justice (Northern Ireland) Order 2003].

(4) The decision to give a notice of transfer shall not be subject to appeal or liable to be questioned in any court.

(5) Schedule 1 (which makes further provision in relation to notices of transfer) shall have effect.

(6) In this Article “child” means a person who—

Changes to legislation: *The Children's Evidence (Northern Ireland) Order 1995, Section 4 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) in the case of an offence falling within^[F1] paragraph (1A)(a) or (b)], is under 14 years of age or, if he was under that age when any such video recording as is mentioned in Article 81A of that Order was made in respect of him, is under 15 years of age; or
- (b) in the case of an offence falling within^[F1] paragraph (1A)(c)], is under 17 years of age or, if he was under that age when any such video recording was made in respect of him, is under 18 years of age.

(7) Any reference in paragraph (6) to an offence falling within paragraph (a), (b) or (c) of^[F1] paragraph (1A)] includes a reference to an offence which consists of attempting or conspiring to commit, or of aiding, abetting, counselling, procuring or inciting the commission of, an offence falling within that paragraph.

- F1** 1999 NI 8
- F2** 1999 NI 8
- F3** Art. 4(2)(a) repealed (17.10.2022) by Criminal Justice (Committal Reform) Act (Northern Ireland) 2022 (c. 4), s. 5(2), **Sch. para. 12**; S.R. 2022/221, art. 2(d)
- F4** Words in art. 4(3) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 4 para. 12(2)**; S.R. 2015/194, art. 2, **Sch.** (with art. 3)

Modifications etc. (not altering text)

- C1** Art. 4(1A) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 94(1), **Sch. 6 para. 27** (with **Sch. 13 para. 5**); S.I. 2008/2504, **art. 2(a)**
- C2** Art. 4(7) modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 94(1), **Sch. 6 para. 27** (with **Sch. 13 para. 5**); S.I. 2008/2504, **art. 2(a)**

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Changes and effects yet to be applied to :

- [art. 4\(1\)\(a\) words inserted by 2015 c. 9 \(N.I.\) Sch. 2 para. 7](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- [Act rev.in pt. \(prosp.\) by 1996 c. 25 ss 7479Sch.4 para.36](#)
- [Act rev.in pt. \(prosp.\) by 1996 c. 25 ss 7479Sch.4 para.36](#)