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STATUTORY INSTRUMENTS

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**2005 No. 384**

**The Criminal Procedure Rules 2005**

**PART 11**

**TRANSFER FOR TRIAL OF SERIOUS FRAUD  
CASES OR CASES INVOLVING CHILDREN**

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**Interpretation of this Part**

**11.1.—(1)** In this Part:

“notice of transfer” means a notice referred to in section 4(1) of the Criminal Justice Act 1987(1) or section 53(1) of the Criminal Justice Act 1991(2).

(2) Where this Part requires a document to be given or sent, or a notice to be communicated in writing, it may, with the consent of the addressee, be sent by electronic communication.

(3) Electronic communication means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

- (a) by means of an electronic communications network (within the meaning of the Communications Act 2003(3)); or
- (b) by other means but while in an electronic form.

*[Note. Formerly rule 2 of the Magistrates' Courts (Notice of Transfer) Rules 1988(4) and rule 2 of the Magistrates' Courts (Notice of Transfer) (Children's Evidence) Rules 1992(5). See also sections 4 and 5 of the Criminal Justice Act 1987 and section 53 of, and Schedule 6 to, the Criminal Justice Act 1991. On the coming into force of Schedule 3 to the Criminal Justice Act*

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- (1) 1987 c. 38; section 4(1) was amended by section 144 of the Criminal Justice Act 1988 (c. 33), section 45 of, and paragraph 22 of Schedule 5 to, the Legal Aid Act 1988 (c. 34), paragraph 29 of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33) and paragraphs 38 and 39 of Schedule 4 to the Access to Justice Act 1999 (c. 22), and is repealed by paragraph 58 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
  - (2) 1991 c. 53; section 53(1) was amended by paragraph 49 of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33) and is repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.
  - (3) 2003 c. 21.
  - (4) S.I. 1988/1701; amending instruments relevant to this Part are S.I. 1997/708, 2001/615 and 2003/1236.
  - (5) S.I. 1992/2070; amending instruments relevant to this Part are S.I. 1997/709, 2001/615, 2003/1236.

2003(6)those provisions will be replaced with sections 51B and 51C of the Crime and Disorder Act 1998(7), which are to similar effect. For the duties of the prosecuting authority see the Criminal Justice Act 1987 (Notice of Transfer) Regulations 1988(8)and the Criminal Justice Act 1991 (Notice of Transfer) Regulations 1992(9).]

### Transfer on bail

**11.2.**—(1) Where a person in respect of whom notice of transfer has been given—

- (a) is granted bail under section 5(3) or (7A) of the Criminal Justice Act 1987(10) by the magistrates' court to which notice of transfer was given; or
- (b) is granted bail under paragraph 2(1) or (7) of Schedule 6 to the Criminal Justice Act 1991(11) by the magistrates' court to which notice of transfer was given,

the magistrates' court officer shall give notice thereof in writing to the governor of the prison or remand centre to which the said person would have been committed by that court if he had been committed in custody for trial.

(2) Where notice of transfer is given under section 4(1) of the 1987 Act in respect of a corporation the magistrates' court officer shall give notice thereof to the governor of the prison to which would be committed a male over 21 committed by that court in custody for trial.

*[Note. Formerly rule 3 of the Magistrates' Courts (Notice of Transfer) Rules 1988 and rule 3 of the Magistrates' Courts (Notice of Transfer) (Children's Evidence) Rules 1992. For bail generally, see Part 19.]*

### Notice where person removed to hospital

**11.3.** Where a transfer direction has been given by the Secretary of State under section 47 or 48 of the Mental Health Act 1983(12) in respect of a person remanded in custody by a magistrates' court and, before the direction ceases to have effect, notice of transfer is given in respect of that person, the magistrates' court officer shall give notice thereof in writing—

- (a) to the governor of the prison to which that person would have been committed by that court if he had been committed in custody for trial; and
- (b) to the managers of the hospital where he is detained.

*[Note. Formerly rule 4 of the Magistrates' Courts (Notice of Transfer) Rules 1988 and rule 4 of the Magistrates' Courts (Notice of Transfer) (Children's Evidence) Rules 1992.]*

### Variation of arrangements for bail

**11.4.**—(1) A person who intends to make an application to a magistrates' court under section 3(8) of the Bail Act 1976(13) as that subsection has effect under section 3(8A) of that Act shall give notice

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(6) 2003 c. 44.

(7) 1998 c. 37; sections 51B and 51C are inserted by paragraphs 15 and 18 of the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.

(8) S.I. 1988/1691.

(9) S.I. 1992/1670, amended by S.I. 1998/461.

(10) Section 5(7A) was inserted by section 144 of the Criminal Justice Act 1988 (c. 33) and is repealed by paragraph 58 of Schedule 3 and Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.

(11) Paragraph 2(1) of Schedule 6 was amended by section 168(2) of, and paragraph 71 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33) and is repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.

(12) 1983 c. 20; section 47 was amended by sections 49(3) and 56(2) of, and Schedule 6 to, the Crime (Sentences) Act 1997 (c. 43).

(13) 1976 c. 63; section 3(8) was amended by section 65(4) of, and Schedule 12 to, the Criminal Law Act 1977 (c. 45) and is further amended by paragraph 48 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed; section 3(8A) was inserted by section 15 of, and paragraph 9 of Schedule 2 to, the Criminal Justice Act 1987 (c. 38) and

thereof in writing to the magistrates' court officer, and to the designated authority or the defendant, as the case may be, and to any sureties concerned.

(2) Where, on an application referred to in paragraph (1), a magistrates' court varies or imposes any conditions of bail, the magistrates' court officer shall send to the Crown Court officer a copy of the record made in pursuance of section 5 of the 1976 Act relating to such variation or imposition of conditions.

*[Note. Formerly rule 5 of the Magistrates' Courts (Notice of Transfer) Rules 1988.]*

### **Documents etc to be sent to Crown Court**

**11.5.** As soon as practicable after a magistrates' court to which notice of transfer has been given has discharged the functions reserved to it under section 4(1) of the Criminal Justice Act 1987 or section 53(3) of the Criminal Justice Act 1991(14), the magistrates' court officer shall send to the Crown Court officer—

- (a) a list of the names, addresses and occupations of the witnesses;
- (b) a copy of the record made in pursuance of section 5 of the Bail Act 1976 relating to the grant of withholding of bail in respect of the accused;
- (c) any recognizance entered into by any person as surety for the accused together with a statement of any enlargement thereof;
- (d) a copy of any representation order previously made in the case; and
- (e) a copy of any application for a representation order previously made in the case which has been refused.

*[Note. Formerly rule 7 of the Magistrates' Courts (Notice of Transfer) Rules 1988 and rule 6 of the Magistrates' Courts (Notice of Transfer) (Children's Evidence) Rules 1992.]*

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amended by section 168(1) of, and paragraph 12(a) of Schedule 9 to, the Criminal Justice and Public Order Act 1994 (c. 33), and is repealed by paragraph 48 of Schedule 3 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.

(14) Section 53(3) was amended by paragraph 49 of Schedule 9 to the Criminal Justice and Public Order Act 1994 (c. 33) and paragraph 47 of Schedule 4 to the Access to Justice Act 1999 (c. 22), and is repealed by Part 4 of Schedule 37 to the Criminal Justice Act 2003 (c. 44) with effect from a date to be appointed.