



Matrimonial and Family Proceedings Act 1984

1984 CHAPTER 42

PART V

FAMILY BUSINESS: DISTRIBUTION AND TRANSFER

Distribution and transfer of family business and proceedings

37 Directions as to distribution and transfer of family business and proceedings.

The President of the Family Division may, with the concurrence of the Lord Chancellor, give directions with respect to the distribution and transfer between the High Court and [^{F1}the family court] of family business and family proceedings.

Textual Amendments

F1 Words in s. 37 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 91](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

38 Transfer of family proceedings from High Court ^{F2}...

- (1) At any stage in any family proceedings in the High Court the High Court may, if the proceedings are transferable under this section, either of its own motion or on the application of any party to the proceedings, order the transfer of the whole or any part of the proceedings to [^{F3}the family court].
- (2) The following family proceedings are transferable [^{F4}to the family court] under this section, namely—
 - (a) all family proceedings commenced in the High Court which are within the jurisdiction of [^{F5}the family court];

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- (b) wardship proceedings, except applications for an order that a minor be made, or cease to be, a ward of court [^{F6}or any other proceedings which relate to the exercise of the inherent jurisdiction of the High Court with respect to minors]; and
- (c) all family proceedings transferred ^{F7}... to the High Court under section 39 below or section 41 of the ^{M1}County Courts Act 1984 (transfer to High Court by order of High Court); [^{F8}and
- (d) all matrimonial causes and matters transferred from the family court or a county court otherwise than as mentioned in paragraph (c) above.]

^{F9}(3)

^{F9}(3A)

^{F9}(3B)

- (4) The transfer shall not affect any right of appeal from the order directing the transfer, or the right to enforce in the High Court any judgment signed, or order made, in that Court before the transfer.
- (5) Where proceedings are transferred to [^{F10}the family court under this section, the family court—]
 - (a) if it has no jurisdiction apart from this paragraph, shall have jurisdiction to hear and determine those proceedings;
 - (b) shall have jurisdiction to award any relief which could have been awarded by the High Court.

Textual Amendments

- F2** Words in s. 38 heading omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 92\(6\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F3** Words in s. 38(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 92\(2\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F4** Words in s. 38(2) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 92\(3\)\(a\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F5** Words in s. 38(2)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 92\(3\)\(b\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F6** Words in s. 38(2)(b) inserted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\), s. 108, Sch. 13 para. 51](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F7** Words in s. 38(2)(c) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 92\(3\)\(c\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F8** S. 38(2)(d) and preceding word inserted by virtue of [Matrimonial Proceedings \(Transfers\) Act 1988 \(c. 18, SIF 49:3\), s. 1\(1\)](#) (as amended (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 101](#); S.I. 2014/954, [art. 2\(e\)](#) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, [arts. 3-11](#)))
- F9** S. 38(3)-(3B) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 92\(4\)](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Changes to legislation: There are currently no known outstanding effects for the Matrimonial and Family Proceedings Act 1984, Cross Heading: Distribution and transfer of family business and proceedings. (See end of Document for details)

F10 Words in s. 38(5) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 92\(5\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Modifications etc. (not altering text)

- C1** S. 38 restricted by [S.I. 1965/1776](#), Order 90, rule 2B (as inserted by [S.I. 1986/632](#), [rule 27](#))
C2 S. 38 excluded (14.10.1991) by [S.I. 1991/1677](#), [art.5](#).
C3 S. 38: power to exclude conferred (28.7.1997) by [1996 c. 27](#), [s. 57\(7\)](#); [S.I. 1997/1892](#), [art. 2](#)
C4 S. 38 excluded (1.10.1997) by [S.I. 1997/1896](#), [art. 6](#)

Marginal Citations

M1 [1984 c. 28](#).

39 Transfer of family proceedings to High Court^{F11}....

- (1) At any stage in any family proceedings in [^{F12}the family court, the family court may,] if the proceedings are transferable under this section, either of its own motion or on the application of any party to the proceedings, order the transfer of the whole or any part of the proceedings to the High Court.
- (2) The following family proceedings are transferable to the High Court under this section, namely—
- [^{F13}(a) all family proceedings commenced in the family court which are within the jurisdiction of the High Court, and
(b) all family proceedings transferred from the High Court under section 38 above.]

Textual Amendments

- F11** Words in s. 39 heading omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 93\(4\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F12** Words in s. 39(1) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 93\(2\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F13** S. 39(2)(a)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 93\(3\)](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Modifications etc. (not altering text)

- C5** S. 39 excluded by [S.I. 1991/1677](#), [art.5](#).
C6 S. 39: power to exclude conferred (28.7.1997) by [1996 c. 27](#), [s. 57\(7\)](#), [S.I. 1997/1892](#), art. 2
C7 S. 39 excluded (1.10.1997) by [S.I. 1997/1896](#), [art. 6](#)

Changes to legislation:

There are currently no known outstanding effects for the Matrimonial and Family Proceedings Act 1984, Cross Heading: Distribution and transfer of family business and proceedings.