

The County Court’s jurisdiction to make search orders

3.—(1) Subject to the following provisions of this regulation, the County Court shall not grant a search order or vary or revoke a search order made by the High Court.

(2) Paragraph (1) shall not apply to a judge of the Court of Appeal or a High Court Judge sitting as a judge of the County Court.

(3) Paragraph (1) shall not—

- (a) affect or modify powers expressly conferred on the County Court by or under any enactment other than section 38 of the County Courts Act 1984; or
- (b) prevent the County Court from varying a search order where all the parties are agreed on the terms of the variation.

Applications for search orders in County Court proceedings

4. An application to the High Court for a search order in County Court proceedings shall be deemed to include an application for transfer of the proceedings to the High Court.

Transfer of proceedings to the County Court

5.—(1) After an application for a search order has been disposed of by the High Court, the proceedings shall, unless the High Court orders otherwise, be transferred to the County Court if—

- (a) they were transferred to the High Court; or
- (b) apart from these Regulations, they should have been commenced in the County Court.

(2) Where a search order is made on an application made without notice, the application shall not be treated as disposed of for the purposes of paragraph (1) until any application to set aside or vary the order has been heard, or until the expiry of 28 days (or such other period as the Court may specify) during which no such application has been made.

Date _____
Parliamentary Under Secretary of State
Ministry of Justice
Name

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations revoke and replace the County Court Remedies Regulations 1991 (SI 1991/1222) (“the 1991 Regulations”). The 1991 Regulations prohibited the County Court from granting (except in specified circumstances)—

- (a) an order allowing one party to search premises for the purpose of obtaining evidence in proceedings (formally known as an “Anton Piller” order, but now referred to as a “search order” in the Civil Procedure Rules 1998 (SI 1998/3132)); and
- (b) an interlocutory injunction preventing a party from either removing assets out of the jurisdiction of the High Court or dealing with assets whether within the jurisdiction of the High Court or outside that jurisdiction (formally known as a “Mareva” injunction, but now referred to as a “freezing injunction” or “freezing order” in the Civil Procedure Rules).

By revoking the 1991 Regulations without replacing their provisions relating to freezing injunctions, the County Court’s power to grant these injunctions will no longer be subject to restriction. However, these Regulations still prohibit the County Court from granting a search

order except in the circumstances previously specified in the 1991 Regulations. Accordingly, these Regulations enable judges who would normally sit in the High Court or the Court of Appeal to grant a search order when sitting as a judge of the County Court (regulation 3(2)). The Regulations also provide that an application to the High Court for a search order shall be deemed to include an application for transfer of the proceedings (regulation 4). Where the proceedings (and not just the application) are transferred to the High Court, the Regulations provide for transfer back to the County Court once the application has been dealt with (regulation 5). The definition of “search order” in regulation 1 reflects the wording used to describe such an order made in the High Court under section 7 of the Civil Procedure Act 1997 (c.12).

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