



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 county courts of family business and family proceedings.

38 Transfer of family proceedings from High Court to county court.

- (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 a county court.
- (2) The following family proceedings are transferable to a county court under this section, namely—
 - (a) all family proceedings commenced in the High Court which are within the jurisdiction of a county court or divorce county court;
 - (b) wardship proceedings, except applications for an order that a minor be made, or cease to be, a ward of court [^{F1}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 from a county court 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); [^{F2}and

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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)

- (d) all matrimonial causes and matters transferred from a county court otherwise than as mentioned in paragraph (e) above.]
- (3) Proceedings transferred under this section shall be transferred to such county court or, in the case of a matrimonial cause or matter within the jurisdiction of a divorce county court only, such divorce county court as the High Court directs.
- (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 a county court under this section, the county 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

- F1** 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\(2\)](#)
- F2** By [Matrimonial Proceedings \(Transfers\) Act 1988 \(c. 18, SIF 49:3\)](#), [s. 1\(1\)](#) it is provided that s. 38 shall have effect as if the word “and” and subsection (d) were added at the end of the list in subsection (2) of the proceedings transferable under that section.

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 from county court.

- (1) At any stage in any family proceedings in a county court, the county 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—
- (a) all family proceedings commenced in a county court or divorce county court; and
 - (b) all family proceedings transferred from the High Court to a county court or divorce county court under section 38 above.

Modifications etc. (not altering text)

- C5** [S. 39](#) excluded by [S.I. 1991/1677](#), [art.5](#).

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| 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 |

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