



Matrimonial and Family Proceedings Act 1984

1984 CHAPTER 42

PART V **E+W**

FAMILY BUSINESS: DISTRIBUTION AND TRANSFER

Preliminary

32 What is family business. **E+W**

In this Part of this Act—

“family business” means business of any description which in the High Court is for the time being assigned to the Family Division and to no other Division by or under section 61 of (and Schedule 1 to) the [^{F1}Senior Courts Act 1981];

“family proceedings” means proceedings which are family business;

^{F2}

“matrimonial cause” means an action for divorce, nullity or marriage, [^{F3}or judicial separation];

^{F2}

Textual Amendments

F1 Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 1\(2\)](#); S.I. 2009/1604, art. 2(d)

F2 Words in s. 32 omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 89](#); 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 substituted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), ss. 68(1), 69(5), [Sch. 1 para. 27](#)

*Changes to legislation: There are currently no known outstanding effects for the
Matrimonial and Family Proceedings Act 1984, Part V. (See end of Document for details)*

Jurisdiction of county courts in matrimonial causes and matters

F⁴33 Jurisdiction of county courts in matrimonial causes. E+W

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Textual Amendments

F4 Ss. 33-36D repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 90](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F⁴34 Jurisdiction of divorce county courts as respects financial relief and protection of children. E+W

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Textual Amendments

F4 Ss. 33-36D repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 90](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F⁴35 Consideration of agreements or arrangements. E+W

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Textual Amendments

F4 Ss. 33-36D repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 90](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F⁴36 Assignment of Circuit judges to matrimonial proceedings. E+W

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Textual Amendments

F4 Ss. 33-36D repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 90](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Jurisdiction of county courts in civil partnership causes and matters

F⁴36A Jurisdiction of county courts in civil partnership causes E+W

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Changes to legislation: There are currently no known outstanding effects for the Matrimonial and Family Proceedings Act 1984, Part V. (See end of Document for details)

Textual Amendments

- F4** Ss. 33-36D repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 90](#); S.I. 2014/954, art. 2(e) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

^{F4}36B Jurisdiction of civil partnership proceedings county courts as respects financial relief and protection of children E+W

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Textual Amendments

- F4** Ss. 33-36D repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 90](#); S.I. 2014/954, art. 2(e) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

^{F4}36C Consideration of agreements or arrangements E+W

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Textual Amendments

- F4** Ss. 33-36D repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 90](#); S.I. 2014/954, art. 2(e) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

^{F4}36D Assignment of circuit judges to civil partnership proceedings E+W

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Textual Amendments

- F4** Ss. 33-36D repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 90](#); S.I. 2014/954, art. 2(e) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Distribution and transfer of family business and proceedings

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

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 [^{F5}the family court] of family business and family proceedings.

Textual Amendments

- F5** 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)

Changes to legislation: There are currently no known outstanding effects for the Matrimonial and Family Proceedings Act 1984, Part V. (See end of Document for details)

38 Transfer of family proceedings from High Court ^{F6} ... **E+W**

- (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 [^{F7}the family court].
- (2) The following family proceedings are transferable [^{F8}to the family court] under this section, namely—
- all family proceedings commenced in the High Court which are within the jurisdiction of [^{F9}the family court];
 - wardship proceedings, except applications for an order that a minor be made, or cease to be, a ward of court [^{F10}or any other proceedings which relate to the exercise of the inherent jurisdiction of the High Court with respect to minors]; and
 - all family proceedings transferred ^{F11}... 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); [^{F12}and
 - all matrimonial causes and matters transferred from the family court or a county court otherwise than as mentioned in paragraph (c) above.]

^{F13}(3)

^{F13}(3A)

^{F13}(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 [^{F14}the family court under this section, the family court—]
- if it has no jurisdiction apart from this paragraph, shall have jurisdiction to hear and determine those proceedings;
 - shall have jurisdiction to award any relief which could have been awarded by the High Court.

Textual Amendments

- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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\(2\)](#)

Changes to legislation: There are currently no known outstanding effects for the Matrimonial and Family Proceedings Act 1984, Part V. (See end of Document for details)

- F11** 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)
- F12** 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))
- F13** 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)
- F14** 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 ^{F15}.... **E+W**

- (1) At any stage in any family proceedings in [^{F16}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—
- [^{F17}(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

- F15** 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)
- F16** 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)
- F17** 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

*Changes to legislation: There are currently no known outstanding effects for the
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C7 S. 39 excluded (1.10.1997) by S.I. 1997/1896, art. 6

Rules of court and fees

F18 40 Family proceedings rules. **E+W**

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Textual Amendments

F18 S. 40 repealed (6.4.2011) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 278(a), **Sch. 10**; S.I. 2010/2921, art. 3(b)

F19 40A Process for making rules of court under section 40 **E+W**

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Textual Amendments

F19 Ss. 40A, 40B inserted (temp. from 3.4.2006 until the repeal of s. 40 comes into force on 6.4.2011) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 381** (with Sch. 4 para. 361); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(cc)

F19 40B Rules to be made if required by Lord Chancellor **E+W**

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Textual Amendments

F19 Ss. 40A, 40B inserted (temp. from 3.4.2006 until the repeal of s. 40 comes into force on 6.4.2011) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 381** (with Sch. 4 para. 361); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(cc)

F20 41 Fees in family proceedings. **E+W**

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Textual Amendments

F20 S. 41 repealed (4.1.2005) by Courts Act 2003 (c. 39), s. 110(1), Sch. 8 para. 278(b), **Sch. 10**; S.I. 2004/3123, art. 2(b)(iv)(c)(iv) (with art. 3)

County court proceedings in principal registry

F21 42 County court proceedings in principal registry of Family Division. **E+W**

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Changes to legislation: There are currently no known outstanding effects for the Matrimonial and Family Proceedings Act 1984, Part V. (See end of Document for details)

Textual Amendments

F21 S. 42 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 94](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Distribution of business: proceedings under s. 17 of Married Women’s Property Act 1882

43 Distribution of business: proceedings under s. 17 of Married Women’s Property Act 1882. [E+W](#)

In section 17 of the ^{M2}Married Women’s Property Act 1882 (which provides for the summary determination of property disputes between spouses and, as extended, former spouses and former engaged couples) for the words after “in a summary way” there shall be substituted the words

“to the High Court or such county court as may be prescribed and the court may, on such an application (which may be heard in private), make such order with respect to the property as it thinks fit.

In this section “prescribed” means prescribed by rules of court and rules made for the purposes of this section may confer jurisdiction on county courts whatever the situation or value of the property in dispute.”.

Marginal Citations

M2 1882 c. 75.

Magistrates’ courts’ domestic jurisdiction

^{F22}44 Family proceedings in magistrates’ courts to include applications to alter maintenance agreements. [E+W](#)

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Textual Amendments

F22 S. 44 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 99](#) Table; S.I. 2014/954, art. 2(d) (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, Part V.