
STATUTORY INSTRUMENTS

1997 No. 1896

**The Family Law Act 1996 (Part IV)
(Allocation of Proceedings) Order 1997**

TRANSFER OF PROCEEDINGS

Disapplication of enactments about transfer

6. Sections 38 and 39 of the Matrimonial and Family Proceedings Act 1984(1) shall not apply to proceedings under Part IV.

Transfer from one family proceedings court to another

7. A family proceedings court (“the transferring court”) shall (on application or of its own motion) transfer proceedings under Part IV to another family proceedings court (“the receiving court”) where—

- (a) the transferring court considers that it would be appropriate for those proceedings to be heard together with other family proceedings which are pending in the receiving court; and
- (b) the receiving court, by its justices' clerk (as defined by rule 1(2) of the Family Proceedings Courts (Children Act 1989) Rules 1991(2)), consents to the transfer.

Transfer from family proceedings court to county court

8.—(1) A family proceedings court may, on application or of its own motion, transfer proceedings under Part IV to a county court where it considers that—

- (a) it would be appropriate for those proceedings to be heard together with other family proceedings which are pending in that court; or
- (b) the proceedings involve—
 - (i) a conflict with the law of another jurisdiction;
 - (ii) some novel and difficult point of law;
 - (iii) some question of general public interest; or
- (c) the proceedings are exceptionally complex.

(2) A family proceedings court must transfer proceedings under Part IV to a county court where—

- (a) a child under the age of eighteen is the respondent to the application or wishes to become a party to the proceedings; or
- (b) a party to the proceedings is a person who, by reason of mental disorder within the meaning of the Mental Health Act 1983(3), is incapable of managing and administering his property and affairs.

(1) 1984 c. 42; there are amendments to section 38 which are not relevant to this instrument.
(2) S.I.1991/1395.
(3) 1980 c. 20.

(3) Except where transfer is ordered under paragraph (1)(a), the proceedings shall be transferred to the nearest county court.

Transfer from family proceedings court to High Court

9. A family proceedings court may, on application or of its own motion, transfer proceedings under Part IV to the High Court where it considers that it would be appropriate for those proceedings to be heard together with other family proceedings which are pending in that Court.

Transfer from one county court to another

10. A county court may, on application or of its own motion, transfer proceedings under Part IV to another county court where—

- (a) it considers that it would be appropriate for those proceedings to be heard together with other family proceedings which are pending in that court;
- (b) the proceedings involve the determination of a question of a kind mentioned in section 59(1) and the property in question is situated in the district of another county court; or
- (c) it seems necessary or expedient so to do.

Transfer from county court to family proceedings court

11. A county court may, on application or of its own motion, transfer proceedings under Part IV to a family proceedings court where—

- (a) it considers that it would be appropriate for those proceedings to be heard together with other family proceedings which are pending in that court; or
- (b) it considers that the criterion
 - (i) in article 8(1)(a) no longer applies because the proceedings with which the transferred proceedings were to be heard have been determined;
 - (ii) in article 8(1)(b) or (c) does not apply.

Transfer from county court to High Court

12. A county court may, on application or of its own motion, transfer proceedings under Part IV to the High Court where it considers that the proceedings are appropriate for determination in the High Court.

Transfer from High Court to family proceedings court

13. The High Court may, on application or of its own motion, transfer proceedings under Part IV to a family proceedings court where it considers that it would be appropriate for those proceedings to be heard together with other family proceedings which are pending in that court.

Transfer from High Court to county court

14. The High Court may, on application or of its own motion, transfer proceedings under Part IV to a county court where it considers that—

- (a) it would be appropriate for those proceedings to be heard together with other family proceedings which are pending in that court;
- (b) the proceedings are appropriate for determination in a county court; or

- (c) it is appropriate for an application made by a child under the age of eighteen to be heard in a county court.

Disposal following arrest

15. Where a person is brought before—

- (a) a relevant judicial authority in accordance with section 47(7)(a), or
- (b) a court by virtue of a warrant issued under section 47(9),

and the matter is not disposed of forthwith, the matter may be transferred to be disposed of by the relevant judicial authority or court which issued the warrant or, as the case may be, which attached the power of arrest under section 47(2) or (3), if different.