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STATUTORY INSTRUMENTS

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**2008 No. 2836**

**The Allocation and Transfer of Proceedings Order 2008**

**PART 2**

**STARTING PROCEEDINGS**

**SECTION 1**

**STARTING PROCEEDINGS IN SPECIFIED LEVEL OF COURT**

**Proceedings which must be started in a magistrates' court**

- 5.—**(1) Proceedings under the following provisions must be started in a magistrates' court—
- (a) section 79K of the 1989 Act (protection of children in an emergency);
  - (b) paragraph 23 of Schedule 2 to the 1989 Act (contribution order);
  - (c) paragraph 8 of Schedule 8 to the 1989 Act (certain appeals);
  - (d) section 23 of the 2002 Act (varying placement order);
  - (e) section 50 or 51 of the 2002 Act (adoption order), unless any local authority will be a party to the proceedings or article 6(c) or (d) applies;
  - (f) section 20 of the Child Support Act 1991 (appeals) where the proceedings are to be dealt with in accordance with the Child Support Appeals (Jurisdiction of Courts) Order 2002(1); and
  - (g) section 30 of the Human Fertilisation and Embryology Act 1990 (parental orders).
- (2) Subject to paragraphs (3) and (4), proceedings under the following provisions must be started in a magistrates' court—
- (a) section 4 of the 1989 Act (acquisition of parental responsibility by father);
  - (b) section 4A of the 1989 Act (acquisition of parental responsibility by step-parent);
  - (c) section 25 of the 1989 Act (use of accommodation for restricting liberty);
  - (d) section 31 of the 1989 Act (care and supervision orders);
  - (e) section 33(7) of the 1989 Act (leave to change surname of, or remove from United Kingdom, child in care);
  - (f) section 34 of the 1989 Act (parental contact etc. with children in care);
  - (g) section 36 of the 1989 Act (education supervision orders);
  - (h) section 43 of the 1989 Act (child assessment orders);
  - (i) section 44 of the 1989 Act (emergency protection orders);

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(1) *S.I. 2002/1915.* This order has effect in relation to a particular type of case from the day on which section 10 of the Child Support, Pensions and Social Security Act 2002 comes into force for the purposes of that type of case. See article 29(5) for transitional provisions dealing with the types of cases for which section 10 has not been commenced.

- (j) section 45 of the 1989 Act (extension, variation or discharge of emergency protection order);
  - (k) section 46(7) of the 1989 Act (emergency protection order by police officer);
  - (l) section 48 of the 1989 Act (powers to assist in discovery of children etc.);
  - (m) section 50 of the 1989 Act (recovery orders);
  - (n) section 102 of the 1989 Act (warrant authorising a constable to assist in exercise of certain powers to search for children etc.); and
  - (o) paragraph 19 of Schedule 2 to the 1989 Act (approval of arrangements to assist child to live abroad).
- (3) Proceedings to which paragraph (2) applies which—
- (a) concern a child who is the subject of proceedings which are pending in a county court or the High Court; and
  - (b) arise out of the same circumstances as gave rise to those proceedings
- may be started in the court in which those proceedings are pending.
- (4) Proceedings under section 4 or 4A of the 1989 Act which are started at the same time as proceedings in a county court or the High Court for an order under section 8 of the 1989 Act (residence, contact and other applications in relation to children) in relation to the same child must be started in the court in which proceedings under section 8 are started.