

---

STATUTORY INSTRUMENTS

---

**2008 No. 2836**

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

**PART 3**

**TRANSFER OF PROCEEDINGS**

**SECTION 2**

**TRANSFER OF PROCEEDINGS TO SPECIFIED LEVEL OF COURT**

**Transfer of proceedings from one magistrates' court to another**

**14.** A magistrates' court (the "transferring court") may transfer proceedings to another magistrates' court (the "receiving court") only if the transferring court considers that—

- (a) the transfer will significantly accelerate the determination of the proceedings;
- (b) it is more convenient for the parties or for the child who is the subject of the proceedings for the proceedings to be dealt with by the receiving court; or
- (c) there is another good reason for the proceedings to be transferred.

**Transfer of proceedings from magistrates' court to county court**

**15.—(1)** Subject to paragraphs (2) and (3), a magistrates' court may transfer the whole or any part of proceedings to a county court only if the magistrates' court considers that—

- (a) the transfer will significantly accelerate the determination of the proceedings;
- (b) there is a real possibility of difficulty in resolving conflicts in the evidence of witnesses;
- (c) there is a real possibility of a conflict in the evidence of two or more experts;
- (d) there is a novel or difficult point of law;
- (e) there are proceedings concerning the child in another jurisdiction or there are international law issues;
- (f) there is a real possibility that enforcement proceedings may be necessary and the method of enforcement or the likely penalty is beyond the powers of a magistrates' court;
- (g) there is a real possibility that a guardian ad litem will be appointed under rule 9.5 of the Family Proceedings Rules 1991(1);
- (h) there is a real possibility that a party to proceedings is a person lacking capacity within the meaning of the Mental Capacity Act 2005(2) to conduct the proceedings; or
- (i) there is another good reason for the proceedings to be transferred.

(2) Proceedings under any of the provisions mentioned in articles 5(1)(a) to (c) or 5(2)(i) to (l) may not be transferred from a magistrates' court.

---

(1) S.I. 1991/1247; relevant amending instruments are S.I. 2001/821, S.I. 2005/559 and S.I. 2005/2922.

(2) 2005 c. 9.

(3) Proceedings under section 25 of the 1989 Act (use of accommodation for restricting liberty) may not be transferred from a magistrates' court which is not a family proceedings court within the meaning of section 67 of the Magistrates' Courts Act 1980(3).

#### **Transfer of proceedings from county court to magistrates' court**

**16.**—(1) A county court must transfer to a magistrates' court proceedings which were transferred under article 15(1) if the county court considers that none of the criteria in article 15(1) applies.

(2) Subject to articles 5(3) and (4), 6 and 8, a county court must transfer to a magistrates' court proceedings which were started in the county court if the county court considers that none of the criteria in article 15(1)(b) to (i) applies.

#### **Transfer of proceedings from one county court to another**

**17.** Subject to articles 16, 20, 21 and 22 a county court (the "transferring court") may transfer proceedings to another county court (the "receiving court") only if the transferring court considers that—

- (a) the transfer will significantly accelerate the determination of the proceedings;
- (b) it is more convenient for the parties or for the child who is the subject of the proceedings for the proceedings to be dealt with by the receiving court;
- (c) the proceedings involve the determination of a question of a kind mentioned in section 59(1) of the 1996 Act and the property in question is situated in the district of the receiving court; or
- (d) there is another good reason for the proceedings to be transferred.

#### **Transfer of proceedings from county court to High Court**

**18.** A county court may transfer proceedings to the High Court only if the county court considers that—

- (a) the proceedings are exceptionally complex;
- (b) the outcome of the proceedings is important to the public in general; or
- (c) there is another substantial reason for the proceedings to be transferred.

#### **Transfer of proceedings from High Court**

**19.** The High Court must transfer to a county court or a magistrates' court proceedings which were started in, or transferred to, the High Court if the High Court considers that none of the criteria in article 18 applies.