
STATUTORY INSTRUMENTS

2008 No. 2836

The Allocation and Transfer of Proceedings Order 2008

PART 5

**REVOCATIONS, CONSEQUENTIAL AMENDMENTS
AND TRANSITIONAL PROVISIONS**

Revocations

27. Subject to article 29(2) and (3), the instruments listed in column 1 of the table in Schedule 2 (which have the references listed in column 2) are revoked to the extent indicated in column 3.

Consequential amendments

28.—(1) Subject to article 29(4), the Family Proceedings Rules 1991(1) are amended as follows—

- (a) in rule 2.39(1) for “where no such application as is referred to in rule 2.40(1) is pending the”, substitute “The”;
- (b) omit rule 2.40;
- (c) in rule 3.8(2) omit “but shall be treated, in the first instance, as an application to the High Court for leave”;
- (d) for rule 4.22(2A) substitute—

“(2A) In relation to an appeal to the High Court under section 94, the documents required to be filed by paragraph (2) shall be filed in the district registry, being in the same place as a care centre within the meaning of article 2(b) of the Allocation and Transfer of Proceedings Order 2008(2), which is nearest to the court below.”; and

- (e) in rule 4.26 after paragraph (5) add—

“(6) Where a local authority makes an application to a magistrates’ court for a care or supervision order with respect to the child in relation to whom the direction was given, the local authority must inform the court that gave the direction of the application in writing.”.

(2) Subject to article 29(4), for rule 3A(8) of the Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991(3) substitute—

“(8) Subject to any enactment, where an application for an occupation order or a non-molestation order is pending, the court may transfer the proceedings to another court of its own motion or on the application of either party; and any order for transfer shall be made in Form FL417.”.

(1) S.I. 1991/1247; relevant amending instruments are S.I. 1992/2067, S.I. 1997/1893, S.I. 2005/617 and S.I. 2005/2922.

(2) S.I. 2008/2836 (L.18).

(3) S.I. 1991/1991; relevant amending instruments are S.I. 1997/1894, 2005/617 and 2007/1628.

Transitional provisions

29.—(1) This Order applies, so far as practicable, to proceedings started before but not concluded by 25th November 2008.

(2) Where, by reason of paragraph (1), this Order does not apply to particular proceedings which have been started but not concluded before the 25th November 2008, the Children (Allocation of Proceedings) Order 1991(4) or the Family Law Act 1996 (Part IV) (Allocation of Proceedings) Order 1997(5), as the case may be, continue to apply to those proceedings.

(3) The Children (Allocation of Proceedings) (Appeals) Order 1991(6) continues to apply to—

- (a) an appeal started before 25th November 2008; and
- (b) an appeal in proceedings to which the Children (Allocation of Proceedings) Order 1991 still applies by virtue of paragraph (2).

(4) The amendments in article 28 do not apply in relation to proceedings to which the Children (Allocation of Proceedings) Order 1991 or the Family Law Act 1996 (Part IV) (Allocation of Proceedings) Order 1997 still apply by virtue of paragraph (2).

(5) In relation to an appeal in respect of a type of case before the commencement of section 10 of the Child Support, Pensions and Social Security Act 2000(7) for the purposes of that type of case, the reference to the Child Support Appeals (Jurisdiction of Courts) Order 2002 in article 5(1)(f) is to be read as a reference to the Child Support Appeals (Jurisdiction of Courts) Order 1993(8).

(4) S.I. 1991/1677, amended by S.I. 1993/624, 1994/2164, 1994/3138, 1995/1649, 1997/1897, 1998/2166, 1999/524, 2000/2670, 2001/775, 2001/1656, 2003/331, 2205/520, 2005/2797, 2006/1541, 2007/1099.

(5) S.I. 1997/1896, amended by S.I. 2005/2924.

(6) S.I. 1991/1801.

(7) 2000 c. 19.

(8) S.I. 1993/961; revoked by S.I. 2002/1915 although the revocation only 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.