

2014 No. 956

FAMILY COURT, ENGLAND AND WALES

The Crime and Courts Act 2013 (Family Court: Transitional and Saving Provision) Order 2014

Made - - - - *9th April 2014*

Coming into force - - *22nd April 2014*

The Lord Chancellor makes the following Order in exercise of the power conferred by section 60 of the Crime and Courts Act 2013(a) (the “2013 Act”).

Citation and commencement

1. This Order may be cited as the Crime and Courts Act 2013 (Family Court: Transitional and Saving Provision) Order 2014 and shall come into force on 22nd April 2014.

Interpretation

2. In this Order—

- (a) “2011 Order” means the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2011(b);
- (b) “2014 Rules” means the Family Court (Composition and Distribution of Business) Rules 2014(c);
- (c) “decision” means a judgment, order or direction;
- (d) “original court” means any court exercising transferred jurisdiction before the transfer day;
- (e) “transfer day” means 22nd April 2014;
- (f) “transferred jurisdiction” means any jurisdiction that is transferred to or conferred on the family court by virtue of the 2013 Act; and
- (g) “transferred proceedings” means proceedings which were issued before the transfer day in the original court under transferred jurisdiction.

Continuation of proceedings in the family court

3.—(1) On and after the transfer day, transferred proceedings are continued in the family court as if they had been issued in that court.

(2) The family court may, in any transferred proceedings, make any direction or do any other act that it considers necessary to ensure the proceedings are dealt with fairly.

(a) 2013 c.22.

(b) S.I. 2011/1044. Articles 1 and 2(1) are amended and articles 2(2) and 3 are revoked by article 3 of the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2014 S.I. 2014/602.

(c) S.I. 2014/840.

Composition, distribution of business and authorisations

4.—(1) A court which was before the transfer day validly composed for transferred proceedings under rules of court or other legislation applicable to those proceedings shall remain validly composed for those transferred proceedings on and after the transfer day as if those rules or other legislation had remained in force, or were still applicable as the case may be.

(2) Any decision as to the allocation of transferred proceedings which was made in relation to those proceedings before the transfer day in accordance with rules of court or other legislation applicable to the allocation of transferred proceedings shall apply to the transferred proceedings as if those rules of court or other legislation remained in force.

(3) Where a judge of the family court was immediately before the transfer day authorised to conduct business in an original court, that authorisation will remain valid in relation to that business in the family court unless and until it is removed or replaced on and after the transfer day.

(4) This article is subject to article 10(2) and 11 of this Order.

General savings for actions in relation to transferred proceedings

5.—(1) Anything done in accordance with rules of court or other legislation applicable to the original court in relation to transferred proceedings is, on and after the transfer day, to be treated as if it had been done in accordance with rules of court or other legislation applicable to the family court.

(2) Where provision is made in or under rules of court in relation to the use on and after the transfer day of forms prescribed in or under rules of court for use in relation to proceedings in the original court, paragraph (1) is subject to that provision.

6.—(1) Any decision, warrant or other act of the original court in transferred proceedings is to have the same effect on and after the transfer day as if it had been a decision, warrant or other act of the family court.

(2) In particular, a warrant issued in transferred proceedings under section 59B(1) of the Magistrates' Court Act 1980(a) shall have effect as if it had been a judgment summons issued by the family court.

(3) Accordingly, on and after the transfer day, further proceedings may be taken in the family court in respect of such a decision, warrant or other act.

Contempt of court proceedings

7. In transferred proceedings for contempt of court, where the alleged contempt of court occurred before the transfer date, section 14 of the Contempt of Court Act 1981(b) shall apply as if it had not been amended by paragraph 53 of Schedule 10 to the 2013 Act.

Family panels

8. Where a family panel has been created before the coming into force of the Crime and Courts Act 2013 (Family Court: Consequential Provision) (No. 2) Order 2014(c) (the "Consequential Order"), then, subject to the provisions of the Family Court (Constitution of Committees: Family Panels) Rules 2014(d), that panel shall continue as if the Consequential Order had not come into force.

(a) 1980 c.43.

(b) 1981 c.49.

(c) S.I. 2014/879.

(d) S.I. 2014/842.

Appeals against a decision in transferred proceedings

9. Subject to articles 10 and 11, a decision in transferred proceedings is treated for the purposes of an appeal against such a decision as if it was a decision of the family court.

Saving of existing rights of appeal with modifications

10.—(1) On and after the transfer day, any right of appeal against a decision in transferred proceedings which is in existence before the transfer day is exercisable as it would have been exercisable before the transfer day, except that where appeal would have lain to the High Court or to a county court, it shall lie instead to the family court.

(2) Subject to paragraph (3) and to the 2011 Order as modified by article 11, the family court shall, when hearing an appeal against a decision in transferred proceedings, be composed in accordance with rules 5 to 7 and 19 of the 2014 Rules.

(3) Where an appeal against a decision in transferred proceedings would have lain to the High Court before the transfer day, such an appeal must be heard by a judge of High Court level as defined in the 2014 Rules.

Application and saving of the 2011 Order with modifications

11. On and after the transfer day, articles 1 to 3 of the 2011 Order shall apply to appeals against a decision in transferred proceedings as they applied before the transfer day, subject to the following modifications—

- (a) in article 1(2), for “or a county court” there is substituted “, or of a county court where the judgment, order or direction is treated as if it were a judgment, order or direction of the family court instead of a county court”;
- (b) in article 2(1), after “judge of the High Court”, there is inserted “sitting in the family court”; and
- (c) in article 3, after “judge of a county court” in the first place where it occurs there is inserted “sitting in the family court”.

Signed by the authority of the Lord Chancellor

9th April 2014

Simon Hughes
Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make transitional and savings provision in relation to the establishment of the single family court. The single family court is established by section 17(3) of the Crime and Courts Act 2013 (c.22) (the “2013 Act”).

Article 3 continues any proceedings issued before 22nd April 2014 in the family court where those proceedings are under jurisdiction that is transferred to or conferred upon the family court by the 2013 Act.

Article 4 continues the validity of any composition of bench or allocation decision in transferred proceedings, as well as authorisations to conduct business of an original court.

Articles 5 and 6 contain general savings for anything done in relation to transferred proceedings, and for judgments, orders, warrants, directions and other acts in transferred proceedings.

Article 7 ensures that any alleged acts of contempt of court that occurred before 22nd April 2014 are subject only to sentencing powers that were in place when the alleged act of contempt of court occurred.

Article 8 continues the validity of family panels created prior to 22nd April 2014.

Articles 9 to 11 make transitional and saving provision in connection with appeals from decisions of transferred proceedings. Existing rights of appeal continue for these decisions on and after the transfer day with modifications in consequence of the family court.

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