



County Courts Act 1984

1984 CHAPTER 28

PART II

JURISDICTION AND TRANSFER OF PROCEEDINGS

Transfer of proceedings

[^{F1}40] Transfer of proceedings to county court.

- (1) Where the High Court is satisfied that any proceedings before it are required by any provision of a kind mentioned in subsection (8) to be in [^{F2}the county court] it shall—
 - (a) order the transfer of the proceedings to [^{F2}the county court] ; or
 - (b) if the court is satisfied that the person bringing the proceedings knew, or ought to have known, of that requirement, order that they be struck out.
- (2) Subject to any such provision, the High Court may order the transfer of any proceedings before it to [^{F2}the county court] .
- (3) An order under this section may be made either on the motion of the High Court itself or on the application of any party to the proceedings.
- ^{F3}(4)
- (5) The transfer of any proceedings under this section shall not affect any right of appeal from the order directing the transfer.
- (6) Where proceedings for the enforcement of any judgment or order of the High Court are transferred under this section—
 - (a) the judgment or order may be enforced as if it were a judgment or order of [^{F2}the county court] ; and
 - (b) subject to subsection (7), it shall be treated as a judgment or order of that court for all purposes.
- (7) Where proceedings for the enforcement of any judgment or order of the High Court are transferred under this section—

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- (a) the powers of any court to set aside, correct, vary or quash a judgment or order of the High Court, and the enactments relating to appeals from such a judgment or order, shall continue to apply; and
 - (b) the powers of any court to set aside, correct, vary or quash a judgment or order of [F2the county court] , and the enactments relating to appeals from such a judgment or order, shall not apply.
- (8) The provisions referred to in subsection (1) are any made–
- (a) under section 1 of the Courts and Legal Services Act 1990; or
 - (b) by or under any other enactment.

F4(9)]

Textual Amendments

F1 S. 40 substituted (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 2\(1\)](#); S.I. 1991/1364, [art. 2](#), Sch.

F2 Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(1\)\(b\)](#); S.I. 2014/954, [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F3 S. 40(4) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(10\)](#); S.I. 2014/954, [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

F4 S. 40(9) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 10 para. 67](#); S.I. 2014/954, [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Modifications etc. (not altering text)

C1 S. 40(2) restricted by [S.I. 1991/724, art. 7\(5\)](#)

41 Transfer to High Court by order of High Court.

- (1) If at any stage in proceedings commenced in [F2the county court] or transferred to [F2the county court] under section 40, the High Court thinks it desirable that the proceedings, or any part of them, should be heard and determined in the High Court, it may order the transfer to the High court of the proceedings or, as the case may be, of that part of them.
- (2) The power conferred by subsection (1) is without prejudice to section 29 of the [F5Senior Courts Act 1981](power of High Court to issue prerogative orders) F6....
- [F7(3) The power conferred by subsection (1) shall be exercised subject to any provision made–
- (a) under section 1 of the Courts and Legal Services Act 1990; or
 - (b) by or under any other enactment.]

Textual Amendments

F2 Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(1\)\(b\)](#); S.I. 2014/954, [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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- F5** Words in s. 41(2) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59\(5\), 148\(1\), Sch. 11 para. 1\(2\); S.I. 2009/1604, art. 2\(b\)\(d\)](#)
- F6** Words in s. 41(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 10 para. 67; S.I. 2014/954, art. 2\(d\) \(with art. 3\) \(with transitional provisions and savings in S.I. 2014/956, arts. 3-11\)](#)
- F7** S. 41(3) added (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\), s. 2\(2\); S.I. 1991/1364, art. 2, Sch.](#)

Modifications etc. (not altering text)

- C2** S. 41 restricted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\) ss. 289, 305\(3\)](#)
- C3** S. 41(1) restricted by [S.I. 1991/724, art. 7\(5\)](#)

[^{F8}42 Transfer to High Court by order of [^{F2}the county court] .

- (1) Where [^{F2}the county court] is satisfied that any proceedings before it are required by any provision of a kind mentioned in subsection (7) to be in the High Court, it shall—
 - (a) order the transfer of the proceedings to the High Court; or
 - (b) if the court is satisfied that the person bringing the proceedings knew, or ought to have known, of that requirement, order that they be struck out.
- (2) Subject to any such provision, [^{F2}the county court] may order the transfer of any proceedings before it to the High Court.
- (3) An order under this section may be made either on the motion of the court itself or on the application of any party to the proceedings.
- (4) The transfer of any proceedings under this section shall not affect any right of appeal from the order directing the transfer.
- (5) Where proceedings for the enforcement of any judgment or order of [^{F2}the county court] are transferred under this section—
 - (a) the judgment or order may be enforced as if it were a judgment or order of the High Court; and
 - (b) subject to subsection (6), it shall be treated as a judgment or order of that court for all purposes.
- (6) Where proceedings for the enforcement of any judgment or order of [^{F2}the county court] are transferred under this section—
 - (a) the powers of any court to set aside, correct, vary or quash a judgment or order of [^{F2}the county court] , and the enactments relating to appeals from such a judgment or order, shall continue to apply; and
 - (b) the powers of any court to set aside, correct, vary or quash a judgment or order of the High Court, and the enactments relating to appeals from such a judgment or order, shall not apply.
- (7) The provisions referred to in subsection (1) are any made—
 - (a) under section 1 of the Courts and Legal Services Act 1990; or
 - (b) by or under any other enactment.

^{F9}(8)]

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Textual Amendments

- F2** Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(1\)\(b\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F8** S. 42 substituted (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 2(3); [S.I. 1991/1364](#), art. 2, Sch.
- F9** S. 42(8) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 67](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Modifications etc. (not altering text)

- C4** S. 42(2) restricted by [S.I. 1991/724](#), art. 7(5)

^{F10}**43**

Textual Amendments

- F10** S. 43 repealed (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#); [S.I. 1991/1364](#), art. 2, [Sch.](#)

^{F11}**44**

Textual Amendments

- F11** S. 44 repealed (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), [Sch. 20](#); [S.I. 1991/1364](#), art. 2, [Sch.](#)

45 Costs in transferred cases.

(1) Where an action, counterclaim or matter is ordered to be transferred—

- (a) from the High Court to [^{F2}the county court] ; or
- (b) from [^{F2}the county court] to the High [^{F12}Court,]
- ^{F13}(c)

the costs of the whole proceedings both before and after the transfer shall, subject to any order of the court which ordered the transfer, be in the discretion of the court to which the proceedings are transferred; and that court shall have power to make orders with respect to the costs ^{F14} . . . , and the costs of the whole proceedings shall be taxed in that court.

^{F15}(2)

Textual Amendments

- F2** Words in ss. 36-147 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 10\(1\)\(b\)](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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- F12** Words in s. 45(1)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(11\)\(a\)](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F13** S. 45(1)(c) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 10\(11\)\(b\)](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F14** Words in s. 45(1) repealed (1.6.1992) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 125\(7\), Sch. 20](#); [S.I. 1992/1221, art. 2](#), Sch.
- F15** S. 45(2) repealed (1.6.1992) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 125\(7\), Sch. 20](#); [S.I. 1992/1221, art. 2](#), Sch.

Modifications etc. (not altering text)

- C5** S. 45 excluded by [S.I. 1988/1328, rule 23](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 6A inserted by [2007 c. 15 s. 107\(1\)](#) (This affecting provision is amended (22.4.2014) by [2013 c. 22, Sch. 9 paras. 10\(53\), 48](#); [S.I. 2014/954, art. 2\(c\)](#))
- s. 60A inserted by [2007 c. 29 s. 191](#)
- s. 60A(2) words substituted by [2013 c. 22 Sch. 9 para. 10\(17\)](#) (Effect not applied as s. 60A has not been brought into force)
- s. 60A(3)(b) words substituted by [S.I. 2022/1166 reg. 10\(2\)\(a\)\(ii\)](#) (This amendment comes into force immediately after [2007 c. 29, s. 191\(1\)](#) comes into force)
- s. 60A(3)(aa) inserted by [S.I. 2022/1166 reg. 10\(2\)\(a\)\(i\)](#) (This amendment comes into force immediately after [2007 c. 29, s. 191\(1\)](#) comes into force)
- s. 60A(3)(bb) inserted by [S.I. 2022/1166 reg. 10\(2\)\(a\)\(iii\)](#) (This amendment comes into force immediately after [2007 c. 29, s. 191\(1\)](#) comes into force)
- s. 60A(3)(cc) inserted by [S.I. 2022/1166 reg. 10\(2\)\(a\)\(iv\)](#) (This amendment comes into force immediately after [2007 c. 29, s. 191\(1\)](#) comes into force)
- s. 60A(7) words inserted by [S.I. 2022/1166 reg. 10\(2\)\(b\)](#) (This amendment comes into force immediately after [2007 c. 29, s. 191\(1\)](#) comes into force)
- s. 60A(7) words substituted by [S.I. 2010/844 Sch. 2 para. 2](#) (Effect not applied as s. 60A has not been brought into force)
- s. 112A112B inserted by [1990 c. 41 s. 13\(5\)](#)