



# Family Law Act 1996

## 1996 CHAPTER 27

### PART IV

#### FAMILY HOMES AND DOMESTIC VIOLENCE

##### *Jurisdiction and procedure etc.*

#### **57 Jurisdiction of courts**

- (1) For the purposes of this Part “the court” means the High Court, a county court or a magistrates' court.
- (2) Subsection (1) is subject to the provision made by or under the following provisions of this section, to section 59 and to any express provision as to the jurisdiction of any court made by any other provision of this Part.
- (3) The Lord Chancellor may by order specify proceedings under this Part which may only be commenced in—
  - (a) a specified level of court;
  - (b) a court which falls within a specified class of court; or
  - (c) a particular court determined in accordance with, or specified in, the order.
- (4) The Lord Chancellor may by order specify circumstances in which specified proceedings under this Part may only be commenced in—
  - (a) a specified level of court;
  - (b) a court which falls within a specified class of court; or
  - (c) a particular court determined in accordance with, or specified in, the order.
- (5) The Lord Chancellor may by order provide that in specified circumstances the whole, or any specified part of any specified proceedings under this Part is to be transferred to—
  - (a) a specified level of court;
  - (b) a court which falls within a specified class of court; or

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*Status: This is the original version (as it was originally enacted).*

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- (c) a particular court determined in accordance with, or specified in, the order.
- (6) An order under subsection (5) may provide for the transfer to be made at any stage, or specified stage, of the proceedings and whether or not the proceedings, or any part of them, have already been transferred.
- (7) An order under subsection (5) may make such provision as the Lord Chancellor thinks appropriate for excluding specified proceedings from the operation of section 38 or 39 of the Matrimonial and Family Proceedings Act 1984 (transfer of family proceedings) or any other enactment which would otherwise govern the transfer of those proceedings, or any part of them.
- (8) For the purposes of subsections (3), (4) and (5), there are three levels of court—
  - (a) the High Court;
  - (b) any county court; and
  - (c) any magistrates' court.
- (9) The Lord Chancellor may by order make provision for the principal registry of the Family Division of the High Court to be treated as if it were a county court for specified purposes of this Part, or of any provision made under this Part.
- (10) Any order under subsection (9) may make such provision as the Lord Chancellor thinks expedient for the purpose of applying (with or without modifications) provisions which apply in relation to the procedure in county courts to the principal registry when it acts as if it were a county court.
- (11) In this section “specified” means specified by an order under this section.

## **58 Contempt proceedings**

The powers of the court in relation to contempt of court arising out of a person’s failure to comply with an order under this Part may be exercised by the relevant judicial authority.

## **59 Magistrates' courts**

- (1) A magistrates' court shall not be competent to entertain any application, or make any order, involving any disputed question as to a party’s entitlement to occupy any property by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him the right to remain in occupation, unless it is unnecessary to determine the question in order to deal with the application or make the order.
- (2) A magistrates' court may decline jurisdiction in any proceedings under this Part if it considers that the case can more conveniently be dealt with by another court.
- (3) The powers of a magistrates' court under section 63(2) of the Magistrates' Courts Act 1980 to suspend or rescind orders shall not apply in relation to any order made under this Part.

## **60 Provision for third parties to act on behalf of victims of domestic violence**

- (1) Rules of court may provide for a prescribed person, or any person in a prescribed category, (“a representative”) to act on behalf of another in relation to proceedings to which this Part applies.

- (2) Rules made under this section may, in particular, authorise a representative to apply for an occupation order or for a non-molestation order for which the person on whose behalf the representative is acting could have applied.
- (3) Rules made under this section may prescribe—
  - (a) conditions to be satisfied before a representative may make an application to the court on behalf of another; and
  - (b) considerations to be taken into account by the court in determining whether, and if so how, to exercise any of its powers under this Part when a representative is acting on behalf of another.
- (4) Any rules made under this section may be made so as to have effect for a specified period and may make consequential or transitional provision with respect to the expiry of the specified period.
- (5) Any such rules may be replaced by further rules made under this section.

## **61 Appeals**

- (1) An appeal shall lie to the High Court against—
  - (a) the making by a magistrates' court of any order under this Part, or
  - (b) any refusal by a magistrates' court to make such an order,but no appeal shall lie against any exercise by a magistrates' court of the power conferred by section 59(2).
- (2) On an appeal under this section, the High Court may make such orders as may be necessary to give effect to its determination of the appeal.
- (3) Where an order is made under subsection (2), the High Court may also make such incidental or consequential orders as appear to it to be just.
- (4) Any order of the High Court made on an appeal under this section (other than one directing that an application be re-heard by a magistrates' court) shall, for the purposes—
  - (a) of the enforcement of the order, and
  - (b) of any power to vary, revive or discharge orders,be treated as if it were an order of the magistrates' court from which the appeal was brought and not an order of the High Court.
- (5) The Lord Chancellor may by order make provision as to the circumstances in which appeals may be made against decisions taken by courts on questions arising in connection with the transfer, or proposed transfer, of proceedings by virtue of any order under section 57(5).
- (6) Except to the extent provided for in any order made under subsection (5), no appeal may be made against any decision of a kind mentioned in that subsection.