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## STATUTORY INSTRUMENTS

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# 2008 No. 2836

## The Allocation and Transfer of Proceedings Order 2008

### PART 2

### STARTING PROCEEDINGS

#### SECTION 1

#### STARTING PROCEEDINGS IN SPECIFIED LEVEL OF COURT

#### **Proceedings which must be started in a magistrates' court**

**5.—**(1) Proceedings under the following provisions must be started in a magistrates' court—

- (a) section 79K of the 1989 Act (protection of children in an emergency);
- (b) paragraph 23 of Schedule 2 to the 1989 Act (contribution order);
- (c) paragraph 8 of Schedule 8 to the 1989 Act (certain appeals);
- (d) section 23 of the 2002 Act (varying placement order);
- (e) section 50 or 51 of the 2002 Act (adoption order), unless any local authority will be a party to the proceedings or article 6(c) or (d) applies;
- (f) section 20 of the Child Support Act 1991 (appeals) where the proceedings are to be dealt with in accordance with the Child Support Appeals (Jurisdiction of Courts) Order 2002(1); and
- (g) section 30 of the Human Fertilisation and Embryology Act 1990 (parental orders).

(2) Subject to paragraphs (3) and (4), proceedings under the following provisions must be started in a magistrates' court—

- (a) section 4 of the 1989 Act (acquisition of parental responsibility by father);
- (b) section 4A of the 1989 Act (acquisition of parental responsibility by step-parent);
- (c) section 25 of the 1989 Act (use of accommodation for restricting liberty);
- (d) section 31 of the 1989 Act (care and supervision orders);
- (e) section 33(7) of the 1989 Act (leave to change surname of, or remove from United Kingdom, child in care);
- (f) section 34 of the 1989 Act (parental contact etc. with children in care);
- (g) section 36 of the 1989 Act (education supervision orders);
- (h) section 43 of the 1989 Act (child assessment orders);
- (i) section 44 of the 1989 Act (emergency protection orders);

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(1) [S.I. 2002/1915](#). This order 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. See article 29(5) for transitional provisions dealing with the types of cases for which section 10 has not been commenced.

- (j) section 45 of the 1989 Act (extension, variation or discharge of emergency protection order);
  - (k) section 46(7) of the 1989 Act (emergency protection order by police officer);
  - (l) section 48 of the 1989 Act (powers to assist in discovery of children etc.);
  - (m) section 50 of the 1989 Act (recovery orders);
  - (n) section 102 of the 1989 Act (warrant authorising a constable to assist in exercise of certain powers to search for children etc.); and
  - (o) paragraph 19 of Schedule 2 to the 1989 Act (approval of arrangements to assist child to live abroad).
- (3) Proceedings to which paragraph (2) applies which—
- (a) concern a child who is the subject of proceedings which are pending in a county court or the High Court; and
  - (b) arise out of the same circumstances as gave rise to those proceedings
- may be started in the court in which those proceedings are pending.
- (4) Proceedings under section 4 or 4A of the 1989 Act which are started at the same time as proceedings in a county court or the High Court for an order under section 8 of the 1989 Act (residence, contact and other applications in relation to children) in relation to the same child must be started in the court in which proceedings under section 8 are started.

### **Proceedings which must be started in a county court**

#### **6. Subject to article 7, proceedings—**

- (a) brought by an applicant who is under the age of eighteen under—
  - (i) section 10(2)(b), 11J(6) or 11O(7) of, or paragraph 9(6) of Schedule A1 to, the 1989 Act (leave of the court to make an application); or
  - (ii) Part 4 of the 1996 Act;
- (b) under section 43 of the 1996 Act (leave of the court for applications by children under sixteen);
- (c) for a Convention adoption order; or
- (d) for an adoption order under the 2002 Act where section 83 of that Act (restriction on bringing children in) applies,

must be started in a county court.

### **Proceedings which may be started in the High Court**

#### **7. Subject to articles 5(3) and (4) and 8, proceedings may be started in the High Court only if—**

- (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 started in the High Court.

### **Proceedings which must be started in the court where proceedings under the 2002 Act are pending**

**8.—(1)** Where proceedings under section 50 or 51 of the 2002 Act (adoption order) are pending, proceedings concerning the same child under—

- (a) section 29(4)(b) of the 2002 Act (leave to apply for a residence order);

(b) section 29(5)(b) of the 2002 Act (leave to apply for a special guardianship order);  
(c) section 8 of the 1989 Act where section 28(1)(a) or 29(4)(b) of the 2002 Act applies (leave obtained to make application for a residence order);  
(d) section 14A of the 1989 Act where section 28(1)(b) or 29(5)(b) of the 2002 Act applies (leave obtained to make application for a special guardianship order);  
(e) section 37(a) of the 2002 Act (leave to remove the child); or  
(f) section 47(3) or (5) of the 2002 Act (leave to oppose the making of an adoption order),  
must be started in the court in which the proceedings under section 50 or 51 are pending.

(2) Where proceedings under section 22 of the 2002 Act (placement order) are pending, proceedings under section 30(2)(b) of that Act (leave to remove a child from accommodation provided by the local authority) must be started in the court in which the proceedings under section 22 are pending.

(3) Where proceedings under section 42(6) of the 2002 Act (leave to apply for an adoption order) are pending, proceedings under section 38(3)(a) or 40(2)(a) of that Act (leave to remove a child) must be started in the court in which the proceedings under section 42(6) are pending.

## SECTION 2

### STARTING PROCEEDINGS IN SPECIFIED CLASS OF COUNTY COURT

#### Starting proceedings under the 1989 Act

9.—(1) Subject to article 8(1)(c) and (d), proceedings under Part 1 or 2 of, or Schedule 1 or paragraphs 4 to 7 or 9 of Schedule A1 to, the 1989 Act which are to be started in a county court must be started in a family hearing centre.

(2) Proceedings under Part 3, 4 or 5 of the 1989 Act which are to be started in a county court must be started in a care centre.

#### Starting proceedings under Part 4A of the 1996 Act

10.—(1) Proceedings under Part 4A of the 1996 Act(2) which are to be started in a county court must be started in a forced marriage county court.

(2) Article 7 applies to proceedings under Part 4A of the 1996 Act as it applies to other proceedings.

#### Starting proceedings under the 2002 Act

11.—(1) Subject to paragraph (2), proceedings under the 2002 Act which are to be started in a county court must be started in an adoption centre.

(2) Proceedings for—

(a) a Convention adoption order; or

(b) an adoption order under the 2002 Act where section 83 of that Act applies

which are to be started in a county court must be started in an intercountry adoption centre.

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(2) Part 4A is inserted by section 1 of the [Forced Marriage \(Civil Protection\) 2007 \(c. 20\)](#).