
STATUTORY INSTRUMENTS

2007 No. 1899

**The Mental Capacity Act 2005
(Transfer Of Proceedings) Order 2007**

Transfers from a court having jurisdiction under the Children Act to the Court of Protection

3.—(1) This article applies to any proceedings in a court having jurisdiction under the Children Act which relate to a person under 18.

(2) A court having jurisdiction under the Children Act may direct the transfer of the whole or part of the proceedings to the Court of Protection where it considers that in all circumstances, it is just and convenient to transfer the proceedings.

(3) In making a determination, the court having jurisdiction under the Children Act must have regard to—

- (a) whether the proceedings should be heard together with other proceedings that are pending in the Court of Protection;
- (b) whether any order that may be made by the Court of Protection is likely to be a more appropriate way of dealing with the proceedings;
- (c) the extent to which any order made as respects a person who lacks capacity is likely to continue to have effect when that person reaches 18; and
- (d) any other matter that the court considers relevant.

(4) A court having jurisdiction under the Children Act—

- (a) may exercise the power to make an order under paragraph (2) on an application or on its own initiative; and
- (b) where it orders a transfer, must give reasons for its decision.

(5) Any proceedings transferred under this article—

- (a) are to be treated for all purposes as if they were proceedings under the Mental Capacity Act 2005 which had been started in the Court of Protection; and
- (b) are to be dealt with after the transfer in accordance with directions given by the Court of Protection.