STATUTORY RULES OF NORTHERN IRELAND

1999 No. 61

FAMILY PROCEEDINGS

The Family Homes and Domestic Violence (Allocation of Proceedings) Order (Northern Ireland) 1999

To be laid before Parliament

Made - - - - 14th February 1999

Coming into operation in accordance with Article 1(1)

The Lord Chancellor, in exercise of the powers conferred on him by Articles 34 and 39(4) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998(**1**) and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Family Homes and Domestic Violence (Allocation of Proceedings) Order (Northern Ireland) 1999 and shall come into operation at the same time as Article 20 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 comes into operation.

(2) In this Order, unless the context otherwise requires—

"the 1996 Order" means the Children (Allocation of Proceedings) Order (Northern Ireland) 1996(**2**);

"the 1998 Order" means the Family Homes and Domestic Violence (Northern Ireland) Order 1998(**3**);

"county court" means a county court of one of the classes specified in Article 2; and

"court of summary jurisdiction" means a court of summary jurisdiction of one of the classes specified in Article 3.

Classes of county court

2. The classes of county court specified for the purposes of this Order are—

(**1**) S.I.1998/1071 (N.I. 6)
(**2**) S.R. 1996 No. 300
(**3**) S.I. 1998/1071 (N.I. 6)

(a) divorce county courts, being those county courts designated for the time being as divorce county courts by an order made under Article 48(1) of the Matrimonial Causes (Northern Ireland) Order 1978(**4**); and

(b) family care centres, being those county courts specified in Schedule 2 to the 1996 Order.

Classes of courts of summary jurisdiction

3. The classes of courts of summary jurisdiction specified for the purposes of this Order are—

(a) family proceedings courts, being those courts of summary jurisdiction specified in Schedule 1 to the 1996 Order; and

(b) domestic proceedings courts, being those courts of summary jurisdiction sitting to hear domestic proceedings in accordance with Article 89 of the Magistrates' Courts (Northern Ireland) Order 1981(**5**).

Commencement of proceedings

4.—(1) Subject to the following provisions of this Article and Article 5, proceedings under the 1998 Order shall be commenced in a domestic proceedings court.

(2) Proceedings under the 1998 Order may be commenced in a family proceedings court if there are other family proceedings pending in that court.

(3) An application under Article 30 of and Schedule 2 to the 1998 Order (Transfer of Certain Tenancies on Divorce etc or on Separation of Cohabitees) or which involves a disputed question such as is mentioned in Article 38 of the 1998 Order shall be commenced in a family care centre or, if other family proceedings are pending in a divorce county court or the High Court, in that court.

(4) An application under the 1998 Order (including an application for leave) brought by an applicant who is under the age of eighteen shall be commenced in the High Court.

Application to extend, vary or discharge order

5.—(1) Proceedings under the 1998 Order—

(a) to extend, vary or discharge an order, or

(b) the determination of which may have the effect of varying or discharging an order,

shall be commenced in the court which made the order.

(2) A court may transfer proceedings commenced in accordance with paragraph (1) to any other court in accordance with the following provisions of this Order.

Transfer from one court of summary jurisdiction to another

6. A court of summary jurisdiction ("the transferring court") shall, on application or of its own motion, transfer proceedings under the 1998 Order to another court of summary jurisdiction ("the receiving court") within the county court division where the transferring court considers that it would be appropriate for those proceedings to be heard together with other family proceedings which are pending in the receiving court.

Transfer from court of summary jurisdiction to county court

7.—(1) A court of summary jurisdiction shall, in application or of its own motion transfer proceedings under the 1998 Order to a county court where it considers that it would be appropriate

(**4**) S.I. 1978/1045 (N.I. 15)
(**5**) S.I. 1981/1675 (N.I. 26)