STATUTORY RULES OF NORTHERN IRELAND

1996 No. 300

FAMILY PROCEEDINGS

The Children (Allocation of Proceedings) Order (Northern Ireland) 1996

Made - - - -	*18th July 1996*
To be laid before Parliament	
Coming into operation	*4th November 1996*

The Lord Chancellor, in exercise of the powers conferred on him by Articles 164(5) and 166(4)(*a*) of and Schedule 7 to the Children (Northern Ireland) Order 1995(**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 Children (Allocation of Proceedings) Order (Northern Ireland) 1996 and shall come into operation on 4th November 1996.

(2) In this Order—

"the 1995 Order" means the Children (Northern Ireland) Order 1995; and

"petty sessions districts" means the petty sessions districts into which Northern Ireland is divided by order made by the Lord Chancellor under Article 11(2) of the Magistrates' Courts (Northern Ireland) Order 1981(**2**).

Classes of court

2. For the purpose of this Order there shall be the following classes of court—

(a) family proceedings courts being those courts of summary jurisdiction constituted as juvenile courts for the petty sessions districts specified in Schedule 1; and

(b) family care centres being those county courts specified in Schedule 2.

Proceedings to be commenced in a family proceedings court

3.—(1) Subject to paragraphs (2), (3), (4) and (5) and to Article 4, proceedings under any of the following provisions of the 1995 Order shall be commenced in a family proceedings court.

(**1**) S.I.1995/755 (N.I. 2)
(**2**) S.I. 1981/1675 (N.I. 26)

(a) Article 7 (acquisition of parental responsibility);

(b) Article 8 (residence, contact and other orders with respect to children);

(c) Article 33 (arrangements to assist children to live abroad);

(d) Article 41 (contribution orders);

(e) Article 44 (secure accommodation);

(f) Article 50 (care orders and supervision orders);

(g) Article 52(7) (leave to change name or remove child from the United Kingdom);

(h) Article 53 (parental contact);

(i) Article 55 (education supervision orders);

(j) Article 62 (child assessment orders);

(k) Article 63 (emergency protection orders);

(l) Article 64 (duration of emergency protection order);

(m) Article 67 (power to assist in discovery of children);

(n) Article 69 (recovery of abducted children);

(o) Article 113 (appeal in relation to private fostering);

(p) Article 129 (protection of children in an emergency);

(q) Article 131(6) (appeal against steps taken under Article 131(1));

(r) Article 145 (appeal against refusal of licence under Part XII);

(s) Article 178 (police assistance in exercise of powers of search and inspection);

(t) Article 28 of the Child Support (Northern Ireland) Order 1991(**3**) (declaration of parentage);

(u) Article 22 of the Child Support (Northern Ireland) Order 1991 (appeals) where the appeal is to be made to a court of summary jurisdiction in accordance with the Child Support Appeals (Jurisdiction of Courts) Order (Northern Ireland) 1993(**4**).

(2) Notwithstanding paragraph (1), proceedings of the kind specified in sub-paragraph (*a*) and (*b*) of that paragraph shall be commenced in a court in which there are pending any other family proceedings which may affect or are connected with the child in respect of whom the proceedings under paragraph (1)(*a*) or (*b*) are sought to be commenced.

(3) Notwithstanding paragraph (1) and subject to paragraph (5) proceedings of a kind specified in sub-paragraph (*f*), (*i*), (*j*), (*k*) or (*m*) of paragraph (1) which arise out of an investigation directed by a court under Article 56(1) of the 1995 Order shall be commenced—

(a) in the court which directed the investigation; or

(b) if the court which directed the investigation so orders, in a family proceedings court.

(4) Notwithstanding paragraph (1) and subject to paragraph (5) proceedings of a kind specified in sub-paragraph (*i*) which arise out of a direction by a court under paragraph (6) of Schedule 13 to the Education and Libraries (Northern Ireland) Order 1986(**5**) shall be commenced—

(a) in the court which made the direction; or

(b) if the court which made the direction so orders, in a family proceedings court.

(**3**) S.I. 1991/2628 (N.I. 23)
(**4**) S.R. 1993 No. 104
(**5**) S.I. 1986/594 (N.I. 3); paragraph 6 of Schedule 13 was substituted by paragraph 131 of Schedule 9 to the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))

(5) Notwithstanding paragraphs (1), (3) and (4) proceedings of a kind specified in sub-paragraphs (*c*), (*e*) to (*n*) or (*s*) shall be commenced in a court in which there are pending any other proceedings under the 1995 Order in relation to the same child and which are also of a kind set out in those sub-paragraphs.

Application to extend, vary or discharge order

4.—(1) Proceedings under the 1995 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 another court in accordance with Articles 5, 6 or 8.

Transfer from a family proceedings court to a family care centre

5.—(1) Subject to paragraph (2) and to Articles 6 and 7 a family proceedings court shall, upon application by a party or of its own motion, transfer to a family care centre proceedings of a kind mentioned in Article 3(1) where it considers that the proceedings are exceptionally grave, important or complex in particular—

(a) because of complicated or conflicting evidence about the child's physical or moral well-being or about other matters relating to the child's welfare;

(b) because of the number of parties;

(c) because of a conflict of law with another jurisdiction;

(d) because of some novel or difficult point of law; or

(e) because of some question of general public interest.

(2) The court shall only transfer proceedings in accordance with paragraph (1) where, having had regard to the principle set out in Article 3(2) of the 1995 Order, it considers it in the interests of the child to do so.

Transfer from a family proceedings court to the High Court or a county court

6.—(1) Notwithstanding Article 5 but subject to paragraph (2) and Article 7 a family proceedings court shall, upon application by a party or of its own motion, transfer to the High Court or county court proceedings of a kind mentioned in Article 3(1) where there are pending in such court any other proceedings which may affect or are connected with the child in respect of whom the proceedings are to be transferred and where it considers that it would be appropriate for the proceedings to be heard together.

(2) The court shall only transfer proceedings in accordance with paragraph (1) where, having had regard to the principle set out in Article 3(2) of the 1995 Order, it considers it in the interests of the child to do so.

Proceedings not subject to transfer

7. Notwithstanding Articles 5 and 6—

(a) proceedings of a kind mentioned in sub-paragraphs (*d*), (*k*), (*l*), (*m*), (*o*) to (*r*), (*t*) and (*u*) of Article 3(1) shall not be transferred from a family proceedings court; and

(b) proceedings of the kind mentioned in sub-paragraph (*e*) or (*s*) of Article 3(1) shall only be transferred from a family proceedings court in order to be heard together with other