STATUTORY INSTRUMENTS

2016 No. 891 (L. 13)

FAMILY PROCEEDINGS
SENIOR COURTS OF ENGLAND AND WALES
FAMILY COURT, ENGLAND AND WALES

The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) (Amendment) Order 2016

Made - - - - 5th September 2016

Coming into force in accordance with article 1

The Lord Chancellor makes the following Order in exercise of the powers conferred by section 56(1) and (3) of the Access to Justice Act 1999(**1**).

In accordance with section 56(4) of that Act the Lord Chancellor has consulted as required.

In accordance with section 56(6) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) (Amendment) Order 2016 and comes into force 28 days after the date on which it is made.

Amendments to the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2014

2. After article 2 (appeals to the family court) of the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2014(**2**) insert—

"**Appeals to the High Court**

2A.—(1) Paragraph (3) applies to an appeal—

(**1**) 1999 c. 22. Section 56(1) was amended by paragraphs 52(1)(b) and (2) of Part 3 of Schedule 9 and paragraphs 78 and 81 of Part 2 of Schedule 10 to the Crime and Courts Act 2013 (c. 22). Section 56(4) was amended by section 15(1) of and paragraphs 279 and 280(1) and (2) of Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4).

(**2**) S.I. 2014/602.

(a) under section 31K(1) of the 1984 Act(**3**) (appeals from the family court in cases where no other right of appeal exists); or

(b) under section 13(2A) of the Administration of Justice Act 1960(**4**) (appeals in cases of contempt of court) from a decision or order of the family court.

(2) Paragraph (3) does not apply—

(a) if the appeal is from a decision or order in proceedings under—

(i) Part 4 or 5 of, or paragraph 19(1) of Schedule 2 to, the Children Act 1989(**5**); or

(ii) the Adoption and Children Act 2002(**6**);

(b) if the appeal is from a decision or order in exercise of the family court's jurisdiction to punish for contempt of court, where that decision or order was made in, or in connection with, proceedings of a type referred to in sub-paragraph (a);

(c) if the appeal is from a decision or order made on appeal to the family court; or

(d) if the person who made the decision or order was, when making the decision or order, deployed in the family court otherwise than as the holder of an office referred to in paragraph (3).

(3) The appeal lies to the High Court (instead of to the Court of Appeal) if it is from a decision or order made by—

(a) a Circuit judge; or

(b) a Recorder.

(4) Paragraph (3) has effect subject to any requirement to obtain permission to appeal.".

Consequential amendment to the Family Procedure Rules 2010

3. In rule 30.3 (permission) of the Family Procedure Rules 2010(**7**), for paragraph (1) substitute —

"(1) Paragraphs (1B) and (2) of this rule set out when permission to appeal is, or is not, required under these rules to appeal against a decision or order of the family court.

(1A) This rule does not apply where the route of appeal from a decision or order of the family court is to the Court of Appeal, namely where the appeal is against a decision or order made by a circuit judge or Recorder—

(a) in proceedings under—

(i) Part 4 of the 1989 Act (care and supervision);

(ii) Part 5 of the 1989 Act (protection of children);

(iii) paragraph 19(1) of Schedule 2 to the 1989 Act (approval by the court of local authority arrangements to assist children to live abroad); or

(iv) the 2002 Act (adoption, placement etc.);

(b) in exercise of the family court's jurisdiction in relation to contempt of court where that decision or order was made in, or in connection with, proceedings referred to in sub-paragraph (a); or

(c) where that decision or order was itself made on an appeal to the family court.

(**3**) Section 31K was inserted by paragraph 1 of Part 1 of Schedule 10 to the Crime and Courts Act 2013.
(**4**) 1960 c. 65. Section 13(2A) was inserted by paragraph 15(1) and (2) of Part 2 of Schedule 10 to the Crime and Courts Act 2013.
(**5**) 1989 c. 41.
(**6**) 2002 c. 38.
(**7**) S.I. 2010/2955. Rule 30.3 was amended by S.I. 2013/530 and 2014/667 and 3296.