Draft Order laid before Parliament under section 56(6) of the Access to Justice Act 1999 for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2014 No. (L.)

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

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

Made - - - -

Coming into force in accordance with rule 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 he 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, commencement and interpretation

1.—(1) This Order may be cited as the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2014 and comes into force on the date on which section 17(3) of the Crime and Courts Act 2013(**2**) is brought fully into force.

(2) In this Order—

"the 1984 Act" means the Matrimonial and Family Proceedings Act 1984(**3**);

"the 2007 Act" means the Tribunals, Courts and Enforcement Act 2007(**4**);

"the 2011 Order" means the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2011(**5**);

(**1**) 1999 c.22. Subsection (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) and paragraphs 279 and 280(1) and (2) of Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (c.4).
(**2**) 2013 c.22.
(**3**) 1984 c.42.
(**4**) 2007 c.15.
(**5**) S.I. 2011/1044.

"authorised court officer" has the meaning assigned to it by rule 44.1 of the Civil Procedure Rules 1998(**6**) as applied to family proceedings by rule 28.2(1) of the Family Procedure Rules 2010(**7**); and

"justice of the peace" means a justice of the peace who is not a District Judge (Magistrates' Courts).

Appeals to the family court

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

(a) under section 31K(1) of the 1984 Act(**8**) (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(**9**) (appeals in cases of contempt of court) from a decision or order of the family court.

(2) Paragraph (3) does not apply if the person, or any of the persons, 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 family court (instead of to the Court of Appeal) if it is from a decision or order made by—

(a) the Senior District Judge of the Family Division;

(b) a district judge of the Principal Registry of the Family Division;

(c) the Chief Taxing Master;

(d) a Taxing Master of the Senior Courts;

(e) a person appointed to act as a deputy for any person holding an office referred to in paragraph (b) or (d), or to act as a temporary additional officer in any such office;

(f) a district judge;

(g) a deputy district judge appointed under section 102 of the Senior Courts Act 1981(**10**) or section 8 of the County Courts Act 1984(**11**);

(h) a Chamber President, or a Deputy Chamber President, of a chamber of the Upper Tribunal or of a chamber of the First-tier Tribunal;

(i) a judge of the Upper Tribunal by virtue of appointment under paragraph 1(1) of Schedule 3 to the 2007 Act;

(j) a transferred-in judge of the Upper Tribunal (see section 31(2) of the 2007 Act);

(**6**) S.I. 1998/3132. Part 44 was substituted by the Civil Procedure (Amendment) Rules 2013 (S.I. 2013/262).
(**7**) S.I. 2010/2955. Rule 28.2(1) was amended by paragraphs 2 and 3(a) of the Family Procedure (Amendment) Rules 2013 (S.I. 2013/530) and by paragraph 72(a) of the Family Procedure (Amendment No. 3) Rules 2013 (S.I.2013/3204).
(**8**) Section 31K was inserted by paragraph 1 of Part 1 of Schedule 10 to the Crime and Courts Act 2013 (c.22).
(**9**) 1960 c.65. Section 13(2A) was inserted by paragraphs 15(1) and (2) of Part 2 of Schedule 10 to the Crime and Courts Act 2013.
(**10**) 1981 c.54. Amendments were made by paragraph 3 (1) to (5) of Schedule 11 to the Tribunals, Courts and Enforcement Act 2007 (c.15). Subsections (1) and (1B) were amended and subsections 5(ZA) to (5ZE) were inserted by Part 4, paragraphs 36(1) to (4) of Schedule 13 to the Crime and Courts Act 2013. Subsection (5) was substituted by paragraph 15(3) of Schedule 8 to the Judicial Pensions and Retirement Act 1993 (c.8).Subsection (6) was repealed by the Courts and legal Services Act 1990 (c. 41), Schedule 20.
(**11**) 1984 c.28. Amendments were made by paragraphs 5, 7(1) to (5) of Schedule 11 to the Tribunals, Courts and Enforcement Act 2007. Subsections (1), (1ZB), (1A) and (4) were amended and subsections (3A) to (3E) were inserted by paragraphs 37(1) to (6) of Part 4 of Schedule 13 to the Crime and Courts Act 2013. Subsections (1), (1B) to (1D) are to be amended or repealed at a date to be appointed by paragraphs (1) and (6) of Part 1 of Schedule 9 to the Crime and Courts Act 2013. Subsection (1A) was inserted by paragraph 17(1) of Schedule 6 to the Judicial Pensions and Retirement Act 1993 and subsection (2) was repealed by Schedule 9 to that Act. Subsection (3) was amended by paragraph 42 of Schedule 18 to the Courts and Legal Services Act 1990.