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

2011 No. (L.)

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

The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2011

Made - - - -

Coming into force - - 6th April 2011

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, interpretation and application

1.—(1) This Order may be cited as the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2011 and shall come into force on 6th April 2011.

(2) In this Order—

"costs judge" means a Taxing Master of the Senior Courts;

"decision" means a judgment, order or direction of the High Court or a county court;

"family proceedings" has the meaning assigned to it by section 32 of the Matrimonial and Family Proceedings Act 1984(**2**).

(3) This Order applies to a decision made in family proceedings in the High Court or a county court and has effect subject to—

(**1**) 1999 c.22. Section 56(4) was amended by the Constitutional Reform Act 2005 (c.4), section 15(1) and Schedule 4, Part 1, paragraphs 279 and 280(1) and (2).

(**2**) 1984 c.42.

(a) any enactment that provides a different route of appeal (other than section 16(1) of the Senior Courts Act 1981(**3**) or section 77(1) of the County Courts Act 1984(**4**)); and

(b) any requirement to obtain permission to appeal.

Appeals to a judge of the High Court

2.—(1) An appeal shall lie to a judge of the High Court from a decision in family proceedings made by—

(a) a district judge of the High Court;

(b) a district judge of the principal registry of the Family Division;

(c) a costs judge; or

(d) a person appointed to act as a deputy for any person holding an office referred to in sub-paragraphs (a) to (c) or to act as a temporary additional officer in any such office.

(2) Paragraph (1) applies irrespective of whether the family proceedings in which the decision was made are in the High Court or whether they are in the principal registry of the Family Division of the High Court when it is treated as if it were—

(a) a divorce county court(**5**);

(b) a civil partnership proceedings county court(**6**);

(c) a family hearing centre(**7**);

(d) a care centre;

(e) an adoption centre;

(f) an intercountry adoption centre;

(g) a forced marriage county court; or

(h) a county court for the purposes of appeals from decisions of a magistrates' court under—

(i) section 94 of the Children Act 1989; and

(ii) section 61 of the Family Law Act 1996(**8**).

Appeals to a judge of a county court

3. An appeal shall lie to a judge of a county court from a decision in family proceedings made by a district judge or deputy district judge of a county court (and for this purpose "judge of a county court" does not include a district judge or a deputy district judge.).

(**3**) By virtue of the Constitutional Reform Act 2005, Schedule 11, Part 1, paragraph 1 and Part 4, paragraph 26, the Supreme Court Act 1981 was renamed the Senior Courts Act 1981. Section 16 was amended by the Constitutional Reform Act 2005, Schedule 9, Part 1, paragraph 36(3) and article 7 of the Access to Justice Act 1999 (Destination of Appeals) Order 2000 (S.I. 2000/1071).

(**4**) 1984 c.28. Section 77(1) was amended by the Civil Procedure Act 1997 (c.12), section 10, Schedule 2, paragraphs 2(1) and (2) and by article 8 of the Access to Justice Act 1999 (Destination of Appeals) Order 2000.

(**5**) By virtue of section 42(4) of the Matrimonial and Family Proceedings Act 1984, the principal registry of the Family Division is treated as a divorce county court.

(**6**) By virtue of section 42(4ZA) of the Matrimonial and Family Proceedings Act 1984, the principal registry of the Family Division is treated as a civil partnership proceedings county court. Section 42(4ZA) was inserted by the Civil Partnership Act 2004 (c.33), section 261(1), Schedule 27, paragraph 96(1) and (8).

(**7**) By virtue of article 3(1)(a) to (e) of the Allocation and Transfer of Proceedings Order 2008(S.I.2008/2836), the principal registry of the Family Division is treated as a family hearing centre, a care centre, an adoption centre, an inter country adoption centre and a forced marriage county court.

(**8**) By virtue of article 3(2) of the Allocation and Transfer of Proceedings Order 2008, the principal registry of the Family Division is treated as a county court for the purposes of appeals from decisions of a magistrates' court under section 94 of the Children Act 1989 (c.41.) and section 61 of the Family Law Act 1996 (c.27). Article 3(2) was inserted by article 11 of the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 (S.I.2009/871).