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

2009 No. [ ] (L.[ ])

FAMILY PROCEEDINGS
SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES
MAGISTRATES' COURTS, ENGLAND AND WALES

The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009

Made - - - -	***
Coming into force - -	*6th April 2009*

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 and commencement

1. This Order may be cited as the Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) Order 2009 and shall come into force on 6th April 2009.

Amendment of the Maintenance Orders Act 1958

2. In section 4(7) of the Maintenance Orders Act 1958(**2**) (Variation of orders registered in magistrates' courts) for "the High Court" substitute "a county court ".

(**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**) 1958 c.39. Section 4(7) was amended by the Administration of Justice Act 1977 (c.38), section 32, Schedule 5, Part IV.

Amendment of the Domestic Proceedings and Magistrates' Courts Act 1978

3.—(1) The Domestic Proceedings and Magistrates' Courts Act 1978(**3**) is amended as follows.

(2) In section 19 (**4**) (Interim orders)—

(a) in subsection (1)(a) omit "and";

(b) for subsection (1)(b) substitute—

"(b) the High Court on ordering the application to be reheard by a magistrates' court after the refusal of an order under section 27 of this Act, and

(c) a county court on ordering the application to be reheard by a magistrates' court on an appeal under section 29 of this Act,";

(c) in subsection (3) for "the High Court" substitute "a county court ";

(d) in subsection (6) after "the High Court" insert "or a county court " ;

(e) in subsection (9) after "the High Court", in both places where it occurs, insert "or a county court ".

(3) In section 29 (**5**) (Appeals) for "the High Court" wherever it occurs substitute "a county court ".

Amendment of the Magistrates' Courts' Act 1980

4.—(1) The Magistrates' Courts Act 1980(**6**) is amended as follows.

(2) In section 111 (Statement of case by magistrates' court), after subsection (6) insert—

"(7) This section does not apply in relation to family proceedings within the meaning of section 111A of this Act".

(3) After section 111 insert—

"**Appeals on ground of error of law etc in family proceedings**

111A.—(1) This section applies in relation to family proceedings in a magistrates' court.

(2) Any person who was a party to any proceeding before the court, or is aggrieved by the order, determination or other proceeding of the court, may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction by appealing to a county court.

(3) But a person may not appeal under subsection (2) in respect of a decision if-

(a) the person has a right of appeal to a county court against the decision otherwise than under this section, or

(b) the decision is final by virtue of any enactment passed after 31st December 1879.

(4) A notice of appeal under subsection (2) shall be filed within 21 days after the day on which the decision of the magistrates' court was given.

(5) In this section "family proceedings" means —

(a) proceedings which, by virtue of section 65 of this Act, are or may be treated as family proceedings for the purposes of this Act; and

(**3**) 1978 c.22.
(**4**) Section 19 was amended by the Children Act 1989 (c.41), section 108(5), Schedule 13, paragraph 37 and section 108(7), Schedule 15; by the Matrimonial and Family Proceedings Act 1984 (c.42), section 46(1), Schedule 1, paragraph 24 and by S.I. 1993/623.
(**5**) Section 29 was amended by the Matrimonial and Family Proceedings Act 1984 (c.42), section 46(1), Schedule 1, paragraph 26 and by the Children Act 1989 (c.41), section 108(5), Schedule 13, paragraph 42 and section 108(7), Schedule 15.
(**6**) 1980 c. 43.

(b) proceedings under the Child Support Act 1991.".

(4) In section 112 (Effect of decision of High Court on case stated by magistrates' court)—

(a) for the heading substitute "Effect of decisions made on case stated or on appeal";

(b) renumber the existing text as subsection (1);

(c) after subsection (1), insert —

"(2) Any order, determination or other proceeding of a magistrates' court varied by a county court on an appeal under section 111A, and any judgment or order of a county court on such an appeal, may be enforced as if it were a decision of the magistrates' court from which the appeal was brought.".

Amendment of the Civil Jurisdiction and Judgments Act 1982

5. In section 6(3)(a) of the Civil Jurisdiction and Judgments Act 1982(**7**) (Appeals under Article 37, second paragraph and Article 41), for "to the High Court by way of case stated in accordance with section 111" substitute "to a county court in accordance with section 111A".

Amendment of the Family Law Act 1986

6. In section 60(5) of the Family Law Act 1986(**8**) (Supplementary provisions as to declarations) for "the High Court" substitute "a county court ".

Amendment of the Children Act 1989

7.—(1) The Children Act 1989(**9**) is amended as follows.

(2) Subject to paragraph (3), in section 94(**10**) (Appeals), for "the High Court" wherever it occurs substitute "a county court ".

(3) In section 94(8)(a) for "the High Court"substitute "the county court".

Amendment of the Family Law Act 1996

8. In section 61 of the Family Law Act 1996(**11**) (Appeals) for "the High Court" wherever it occurs substitute "a county court ".

Amendment of the Crime and Disorder Act 1998

9.—(1) The Crime and Disorder Act 1998(**12**) is amended as follows.

(2) In section 10 (Appeals against parenting orders) for "the High Court" wherever it occurs substitute "a county court ".

(3) In section 13 (Appeals against child safety orders) for "the High Court" wherever it occurs substitute "a county court ".

(**7**) 1982 c.27. Section 6(3) was amended by the Civil Jurisdiction and Judgments Act 1991 (c.12), section 3, Schedule 2, paragraph 3.
(**8**) 1986 c.55. Subsection (5) was inserted by the Child Support, Pensions and Social Security Act 2000 (c.19), section 83(1) and (4).
(**9**) 1989 c.41.
(**10**) Section 94 was amended by the Courts and Legal Services Act 1990 (c.41), section 116, Schedule 16, Part 1, paragraph 23 and by the Adoption and Children Act 2002 (c.38), section 100.
(**11**) 1996 c.27. Section 61 was amended by the Constitutional Reform Act 2005 (c.4), section 15(1), Schedule 4, Part 1, paragraphs 252 and 254.
(**12**) 1998 c. 37.