

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

2005 No. [] (L.[])

**FAMILY PROCEEDINGS
SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

**The Access to Justice Act 1999 (Destination
of Appeals) (Family Proceedings) Order 2005**

Made - - - -

Coming into force - - 30th December 2005

The Lord Chancellor makes the following Order in exercise of the powers conferred by section 56(1) 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 2005 and shall come into force on 30th December 2005.

(2) In this Order—

“costs judge” means a taxing master of the Supreme Court;

“decision” includes any judgment, order or direction of the High Court or a county court.

(3) This Order—

(a) applies to a decision made in proceedings—

(i) relating to adoption including the exercise of the inherent jurisdiction of the High Court with respect to minors; and

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

- (ii) for the purpose of enforcing an order made in proceedings described in paragraph (i), including the exercise of jurisdiction to punish for contempt of court; and
- (b) is subject to—
 - (i) any enactment that provides a different route of appeal (other than section 16(1) of the Supreme Court Act 1981⁽²⁾ or section 77(1) of the County Courts Act 1984⁽³⁾); and
 - (ii) any requirement to obtain permission to appeal.

Appeals from the High Court

2.—(1) An appeal shall lie to a judge of the High Court where the decision to be appealed is 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 such an office as is 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 proceedings in which the decision was made are pending in the High Court or whether they are pending in the principal registry of the Family Division of the High Court when it is treated as if it were an adoption centre or intercountry adoption centre⁽⁴⁾.

Appeals from a county court

3. An appeal shall lie to a judge of a county court where the decision to be appealed is made by a district judge or deputy district judge of a county court.

Transitional provisions

4. Where a person has filed a notice of appeal or applied for permission to appeal before 30th December 2005—

- (a) this Order shall not apply to the appeal to which that notice or application relates; and
- (b) that appeal shall lie to the court to which it would have lain before 30th December 2005.

Signed by authority of the Lord Chancellor

Date

Parliamentary Under Secretary of State,
Department for Constitutional Affairs

(2) 1981 c.54.

(3) 1984 c.28.

(4) By virtue of article 19 of the Children (Allocation of Proceedings) Order 1991 (S.I. 1991/1677) the principal registry of the Family Division is treated as an adoption centre and intercountry adoption centre.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides that, with effect from 30th December 2005, appeals against decisions made in proceedings relating to adoption, including the exercise of the inherent jurisdiction of the High Court with respect to minors, and in proceedings for the purpose of enforcing an order made in such proceedings, shall lie as follows—

- (c) appeals from decisions made by a district judge of a county court will lie to a judge of that court (article 3); and
- (d) appeals from decisions made by—
 - (i) a district judge of the High Court,
 - (ii) a district judge of the principal registry of the Family Division,
 - (iii) a costs judge, or
 - (iv) any person appointed to act as a deputy for any person holding the offices referred to in sub-paragraphs (i) to (iii) or to act as a temporary additional officer in any such office

will lie to a judge of the High Court (article 2).

By virtue of article 4, any appeal in which the appeal notice was lodged before 30th December 2005, shall lie to the same court that it would have lain to before 30th December 2005.