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STATUTORY INSTRUMENTS

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**2010 No. 2955**

**The Family Procedure Rules 2010**

**PART 30**

**APPEALS**

**Scope and interpretation**

**30.1.**—(1) The rules in this Part apply to appeals to—

- (a) the High Court; and
- (b) [<sup>F1</sup>the family court].

(2) This Part does not apply to an appeal in detailed assessment proceedings against a decision of an authorised court officer.

(Rules [<sup>F2</sup>47.21 to 47.24] of the CPR deal with appeals against a decision of an authorised court officer in detailed assessment proceedings.)

(3) In this Part—

“appeal court” means the court to which an appeal is made;

“appeal notice” means an appellant's or respondent's notice;

“appellant” means a person who brings or seeks to bring an appeal;

[<sup>F3</sup>“costs judge” means —

- (a) the Chief Taxing Master;
- (b) a taxing master of the Senior Courts; or
- (c) a person appointed to act as deputy for the person holding office referred to in paragraph (b) or to act as temporary additional officer for any such office;

“district judge” means —

- (a) the Senior District Judge of the Family Division
- (b) a district judge of the Principal Registry of the Family Division;
- (c) a person appointed to act as deputy for the person holding office referred to in paragraph (b) or to act as temporary additional officer for any such office;
- (d) a district judge;
- (e) a deputy district judge appointed under section 102 of the Senior Courts Act 1981 or section 8 of the County Courts Act 1984; or
- (f) a District Judge (Magistrates' Courts);]

“lower court” means the court from which, or the person from whom, the appeal lies; and

“respondent” means—

- (a) a person other than the appellant who was a party to the proceedings in the lower court and who is affected by the appeal; and

(b) a person who is permitted by the appeal court to be a party to the appeal.

(4) This Part is subject to any rule, enactment or practice direction which sets out special provisions with regard to any particular category of appeal.

#### Textual Amendments

- F1** Words in rule 30.1(1)(b) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), rules 1, **21(a)** (with rule 45)
- F2** Words in rule 30.1 substituted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), rules 1, **21(b)** (with rule 45)
- F3** Words in rule 30.1(3) inserted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), rules 1, **21(c)** (with rule 45)

#### Parties to comply with the practice direction

**30.2.** All parties to an appeal must comply with Practice Direction 30A.

#### Permission

**30.3.**—<sup>F4</sup>(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 subparagraph (a); or
- (c) where that decision or order was itself made on an appeal to the family court.

(Appeals in the cases referred to in this paragraph are outside the scope of these rules. The CPR make provision requiring permission to appeal in those cases.)

(1B) Permission to appeal is required under these rules—

- (a) unless paragraph (2) applies, where the appeal is against a decision made by a circuit judge, Recorder, district judge or costs judge; or
- (b) as provided by Practice Direction 30A.]

(2) Permission to appeal is not required where the appeal is against—

- (a) a committal order; <sup>F5</sup>...
- (b) a secure accommodation order under section 25 of the 1989 Act [<sup>F6</sup>; or]

[<sup>F7</sup>(c) a refusal to grant habeas corpus for release in relation to a minor.]

(3) An application for permission to appeal may be made—

- (a) to the lower court at the hearing at which the decision to be appealed was made [<sup>F8</sup>or, if the hearing is adjourned to a later date, the hearing on that date]; or
- (b) to the appeal court in an appeal notice.

(Rule 30.4 sets out the time limits for filing an appellant's notice at the appeal court. Rule 30.5 sets out the time limits for filing a respondent's notice at the appeal court. Any application for permission to appeal to the appeal court must be made in the appeal notice (see rules 30.4(1) and 30.5(3).)

(4) Where the lower court refuses an application for permission to appeal, a further application for permission to appeal may be made to the appeal court.

(5) [<sup>F9</sup>Subject to paragraph (5A), where] the appeal court, without a hearing, refuses permission to appeal, the person seeking permission may request the decision to be reconsidered at a hearing.

[<sup>F10</sup>[<sup>F11</sup>(5A) Where—

- (a) a judge of the High Court; or
- (b) in the family court—
  - (i) a judge of the High Court;
  - (ii) a Designated Family Judge; or
  - (iii) where the application relates to financial remedy proceedings, a Nominated FRC Circuit Judge,

refuses permission to appeal without a hearing and considers that the application is totally without merit, the judge may make an order that the person seeking permission may not request the decision to be reconsidered at a hearing.]

(5B) Rule 4.3(5) will not apply to an order that the person seeking permission may not request the decision to be reconsidered at a hearing made under paragraph (5A).]

[<sup>F12</sup>(5C) In paragraph (5A) “Nominated FRC Circuit Judge” means any circuit judge nominated by the National Lead Judge of the Financial Remedies Court for the purposes of that paragraph.]

(6) A request under paragraph (5) must be filed within 7 days beginning with the date on which the notice that permission has been refused was served.

- (7) Permission to appeal may be given only where—
  - (a) the court considers that the appeal would have a real prospect of success; or
  - (b) there is some other compelling reason why the appeal should be heard.
- (8) An order giving permission may—
  - (a) limit the issues to be heard; and
  - (b) be made subject to conditions.

<sup>F13</sup>(9) .....

**Textual Amendments**

- F4** Rules 30.3(1)-(1B) substituted for rule 30.3(1) (3.10.2016) by The Access to Justice Act 1999 (Destination of Appeals) (Family Proceedings) (Amendment) Order 2016 (S.I. 2016/891), arts. 1, 3 (with art. 4)
- F5** Word in rule 30.3(2)(a) omitted (6.4.2015) by virtue of The Family Procedure (Amendment No. 4) Rules 2014 (S.I. 2014/3296), rules 1(3), **11(a)** (with rule 15)
- F6** Word in rule 30.3(2)(b) substituted (6.4.2015) by The Family Procedure (Amendment No. 4) Rules 2014 (S.I. 2014/3296), rules 1(3), **11(b)** (with rule 15)
- F7** Rule 30.3(2)(c) inserted (6.4.2015) by The Family Procedure (Amendment No. 4) Rules 2014 (S.I. 2014/3296), rules 1(3), **11(c)** (with rule 15)

- F8** Words in rule 30.3(3)(a) inserted (1.4.2022) by The Family Procedure (Amendment) Rules 2022 (S.I. 2022/44), rules 1(3), **28(1)**
- F9** Words in rule 30.3(5) substituted (1.4.2013) by The Family Procedure (Amendment) Rules 2013 (S.I. 2013/530), rules 1, **5(a)**
- F10** Rule 30.3(5A)(5B) inserted (1.4.2013) by The Family Procedure (Amendment) Rules 2013 (S.I. 2013/530), rules 1, **5(b)**
- F11** Rule 30.3(5A) substituted (6.4.2023) by The Family Procedure (Amendment) Rules 2023 (S.I. 2023/61), rules 1(3), **14(a)**
- F12** Rule 30.3(5C) inserted (6.4.2023) by The Family Procedure (Amendment) Rules 2023 (S.I. 2023/61), rules 1(3), **14(b)**
- F13** Rule 30.3(9) omitted (22.4.2014) by virtue of The Family Procedure (Amendment No. 2) Rules 2014 (S.I. 2014/667), rules 1, **22(b)** (with rule 45)

**Appellant's notice**

**30.4.**—(1) Where the appellant seeks permission from the appeal court it must be requested in the appellant's notice.

(2) Subject to paragraph (3), the appellant must file the appellant's notice at the appeal court within —

- (a) such period as may be directed by the lower court [<sup>F14</sup>at the hearing at which the decision to be appealed was made or, if the hearing is adjourned to a later date, the hearing on that date] (which may be longer or shorter than the period referred to in sub-paragraph (b)); or
- (b) where the court makes no such direction, 21 days after the date of the decision of the lower court against which the appellant wishes to appeal.

[<sup>F15</sup>(3) Where the appeal is against —

- (a) a case management decision; or
- (b) an order under section 38(1) of the 1989 Act,

the appellant must file the appellant's notice within 7 days beginning with the date of the decision of the lower court.]

(4) Unless the appeal court orders otherwise, an appellant's notice must be served on each respondent and the persons referred to in paragraph (5)—

- (a) as soon as practicable; and
- (b) in any event not later than 7 days,

after it is filed.

(5) The persons referred to in paragraph (4) are—

- (a) any children's guardian, welfare officer, or children and family reporter;
- (b) a local authority who has prepared a report under section 14A(8) or (9) of the 1989 Act;
- (c) an adoption agency or local authority which has prepared a report on the suitability of the applicant to adopt a child;
- (d) a local authority which has prepared a report on the placement of the child for adoption; and

<sup>F16</sup>(e) .....

### Textual Amendments

- F14** Words in rule 30.4(2)(a) inserted (1.4.2022) by [The Family Procedure \(Amendment\) Rules 2022 \(S.I. 2022/44\)](#), rules 1(3), **28(2)**
- F15** Rule 30.4(3) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), rules 1, **23(a)** (with rule 45)
- F16** Rule 30.4(5)(e) omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), rules 1, **23(b)** (with rule 45)

### Respondent's notice

**30.5.**—(1) A respondent may file and serve a respondent's notice.

(2) A respondent who—

- (a) is seeking permission to appeal from the appeal court; or
- (b) wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court,

must file a respondent's notice.

(3) Where the respondent seeks permission from the appeal court it must be requested in the respondent's notice.

(4) [<sup>F17</sup>Subject to paragraph (4A), a respondent's notice] must be filed within—

- (a) such period as may be directed by the lower court [<sup>F18</sup>at the hearing at which the decision to be appealed was made or, if the hearing is adjourned to a later date, the hearing on that date]; or
- (b) where the court makes no such direction, 14 days beginning with the date referred to in paragraph (5).

[<sup>F19</sup>(4A) Where the appeal is against a case management decision, a respondent's notice must be filed within—

- (a) such period as may be directed by the lower court; or
- (b) where the court makes no such direction, 7 days beginning with the date referred to in paragraph (5).]

(5) The date referred to in paragraph (4) is—

- (a) the date on which the respondent is served with the appellant's notice where—
  - (i) permission to appeal was given by the lower court; or
  - (ii) permission to appeal is not required;
- (b) the date on which the respondent is served with notification that the appeal court has given the appellant permission to appeal; or
- (c) the date on which the respondent is served with notification that the application for permission to appeal and the appeal itself are to be heard together.

(6) Unless the appeal court orders otherwise, a respondent's notice must be served on the appellant, any other respondent and the persons referred to in rule 30.4(5)—

- (a) as soon as practicable; and
- (b) in any event not later than 7 days,

after it is filed.

(7) Where there is an appeal against an order under section 38(1) of the 1989 Act—

- (a) a respondent may not, in that appeal, bring an appeal from the order or ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court; and
- (b) paragraphs (2) and (3) do not apply.

#### **Textual Amendments**

- F17** Words in rule 30.5(4) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), rules 1, **24(a)** (with rule 45)
- F18** Words in rule 30.5(4)(a) inserted (1.4.2022) by [The Family Procedure \(Amendment\) Rules 2022 \(S.I. 2022/44\)](#), rules 1(3), **28(3)**
- F19** Rule 30.5(4A) inserted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), rules 1, **24(b)** (with rule 45)

#### **Grounds of appeal**

**30.6.** The appeal notice must state the grounds of appeal.

#### **Variation of time**

**30.7.**—(1) An application to vary the time limit for filing an appeal notice must be made to the appeal court.

- (2) The parties may not agree to extend any date or time limit set by—
  - (a) these rules;
  - (b) Practice Direction 30A; or
  - (c) an order of the appeal court or the lower court.

(Rule 4.1(3)(a) provides that the court may extend or shorten the time for compliance with a rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired.) (Rule 4.1(3)(c) provides that the court may adjourn or bring forward a hearing.)

#### **Stay**

**30.8.** Unless the appeal court or the lower court orders otherwise, an appeal does not operate as a stay<sup>(GL)</sup> of any order or decision of the lower court.

#### **Amendment of appeal notice**

**30.9.** An appeal notice may not be amended without the permission of the appeal court.

#### **Striking out appeal notices and setting aside or imposing conditions on permission to appeal**

**30.10.**—(1) The appeal court may—

- (a) strike out<sup>(GL)</sup> the whole or part of an appeal notice;
- (b) set aside<sup>(GL)</sup> permission to appeal in whole or in part;
- (c) impose or vary conditions upon which an appeal may be brought.

(2) The court will only exercise its powers under paragraph (1) where there is a compelling reason for doing so.

(3) Where a party was present at the hearing at which permission was given that party may not subsequently apply for an order that the court exercise its powers under paragraphs (1)(b) or (1)(c).

### **Appeal court's powers**

**30.11.**—(1) In relation to an appeal the appeal court has all the powers of the lower court. (Rule 30.1(4) provides that this Part is subject to any enactment that sets out special provisions with regard to any particular category of appeal.)

(2) The appeal court has power to—

- (a) affirm, set aside<sup>(GL)</sup> or vary any order or judgment made or given by the lower court;
- (b) refer any application or issue for determination by the lower court;
- (c) order a new hearing;
- (d) make orders for the payment of interest;
- (e) make a costs order.

(3) The appeal court may exercise its powers in relation to the whole or part of an order of the lower court. (Rule 4.1 contains general rules about the court's case management powers.)

(4) If the appeal court—

- (a) refuses an application for permission to appeal;
- (b) strikes out an appellant's notice; or
- (c) dismisses an appeal,

and it considers that the application, the appellant's notice or the appeal is totally without merit, the provisions of paragraph (5) must be complied with.

(5) Where paragraph (4) applies—

- (a) the court's order must record the fact that it considers the application, the appellant's notice or the appeal to be totally without merit; and
- (b) the court must at the same time consider whether it is appropriate to make a civil restraint order.

### **Hearing of appeals**

**30.12.**—(1) Every appeal will be limited to a review of the decision of the lower court unless—

- (a) an enactment or practice direction makes different provision for a particular category of appeal; or
- (b) the court considers that in the circumstances of an individual appeal it would be in the interests of justice to hold a re-hearing.

(2) Unless it orders otherwise, the appeal court will not receive—

- (a) oral evidence; or
- (b) evidence which was not before the lower court.

(3) The appeal court will allow an appeal where the decision of the lower court was—

- (a) wrong; or
- (b) unjust because of a serious procedural or other irregularity in the proceedings in the lower court.

(4) The appeal court may draw any inference of fact which it considers justified on the evidence.

(5) At the hearing of the appeal a party may not rely on a matter not contained in that party's appeal notice unless the appeal court gives permission.

**[<sup>F20</sup>Appeal court’s power to order that hearing of appeal be held in public**

**30.12A.**—(1) This rule applies where by virtue of rule 27.10 the hearing of an appeal is to be held in private.

(2) The appeal court may make an order—

- (a) for the hearing of the appeal to be in public;
- (b) for a part of the hearing of the appeal to be in public; or
- (c) excluding any person or class of persons from attending a public hearing of an appeal or any part of it.

(3) Where the appeal court makes an order under paragraph (2), it may in the same order or in a subsequent order—

- (a) impose restrictions on the publication of the identity of—
  - (i) any party;
  - (ii) any child (whether or not a party);
  - (iii) any witness; or
  - (iv) any other person;
- (b) prohibit the publication of any information which may lead to any such person being identified;
- (c) prohibit the publication of any information relating to the proceedings from such date as the court may specify; or
- (d) impose such other restrictions on the publication of information relating to the proceedings as the court may specify.

(4) A practice direction may provide for—

- (a) circumstances (which may be of general application or applicable only to specified appeal courts or proceedings) in which the appeal court will ordinarily make an order under paragraph (2); and
- (b) the terms of the order under paragraph (3) which the court will ordinarily make in such circumstances.]

**Textual Amendments**

**F20** Rule 30.12A inserted (10.12.2018) by [The Family Procedure \(Amendment No. 2\) Rules 2018 \(S.I. 2018/1172\)](#), rules 1, 6

**Assignment of appeals to the Court of Appeal**

**30.13.**—(1) Where the court from or to which an appeal is made or from which permission to appeal is sought (“the relevant court”) considers that—

- (a) an appeal which is to be heard by a county court or the High Court would raise an important point of principle or practice; or
- (b) there is some other compelling reason for the Court of Appeal to hear it,

the relevant court may order the appeal to be transferred to the Court of Appeal.

[<sup>F21</sup>(2) Paragraph (1) does not allow an application for permission to appeal to be transferred to the Court of Appeal.]



### Textual Amendments

**F21** Rule 30.13(2) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), [rules 1, 25](#) (with [rule 45](#))

### Reopening of final appeals

**30.14.**—(1) The High Court will not reopen a final determination of any appeal unless—

- (a) it is necessary to do so in order to avoid real injustice;
- (b) the circumstances are exceptional and make it appropriate to reopen the appeal; and
- (c) there is no alternative effective remedy.

(2) In paragraphs (1), (3), (4) and (6), “appeal” includes an application for permission to appeal.

(3) This rule does not apply to appeals to <sup>F22</sup>the family court].

(4) Permission is needed to make an application under this rule to reopen a final determination of an appeal.

(5) There is no right to an oral hearing of an application for permission unless, exceptionally, the judge so directs.

(6) The judge will not grant permission without directing the application to be served on the other party to the original appeal and giving that party an opportunity to make representations.

(7) There is no right of appeal or review from the decision of the judge on the application for permission, which is final.

(8) The procedure for making an application for permission is set out in Practice Direction 30A.

### Textual Amendments

**F22** Words in rule 30.14(3) substituted (22.4.2014) by [The Family Procedure \(Amendment No. 2\) Rules 2014 \(S.I. 2014/667\)](#), [rules 1, 26](#) (with [rule 45](#))

**Changes to legislation:**

There are currently no known outstanding effects for the The Family Procedure Rules 2010, PART 30.