

CHILDREN, SCHOOLS AND FAMILIES ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Family Proceedings

Section 11: Restriction on publication of information relating to family proceedings

45. **Section 11** provides for the proceedings which are to come within the new publication framework, and for the starting point that no information relating to such proceedings is to be published. There are three exceptions (authorised categories of information). These are authorised publications of relevant court orders or judgments or authorised news publications (both of which are covered in more detail in the sections which follow); and information the publication of which is authorised by rules of court (which will govern disclosure for various purposes much as is presently done by Part XI of the Family Proceedings Rules 1991, amended in April 2009).
46. **Subsection (1)** outlines which proceedings are covered. Family proceedings which the media, but not the general public, are entitled to attend will be included in the new framework.
47. **Subsection (2)** provides for the basic rule of no publication of information relating to proceedings within scope unless the publication comes within one of three authorised categories. It then sets out the three categories. Publication of information which is not within one of the authorised categories will be contempt of court (“publication” being defined in section 21 to include all instances of written and spoken communication, whether between two individuals or for mass consumption by way of press, broadcast media or internet, consistent with existing caselaw). **Subsection (3)** provides a saving for the general inherent jurisdiction of the court to permit publication, which is intended to allow the courts to continue the existing practice of permitting limited disclosures of information for specific purposes on a flexible basis which may not be covered in rules.
48. **Subsection (5)** is a transitional provision which applies the new regime to proceedings which fall under the definition of family proceedings at the time of commencement but later cease to be family proceedings because of changes to the definitions in section 65 of the Magistrates’ Courts Act 1980 and section 32 of the Matrimonial and Family Proceedings Act 1984 (referred to in subsection (4)).
49. **Subsections (4) to (9)** flesh out the detail of what “relevant family proceedings” are. “Family proceedings” will mean the same as in existing legislation, but “relevant family proceedings”, to which the new reporting scheme will apply, will not include the types of proceedings listed in **subsection (6)**, which are already subject to a different reporting regime (so the scheme under the 1926 Act is left in place for proceedings it already covers). The Lord Chancellor may by order amend the definition of “relevant family proceedings”, for example to bring new sorts of proceedings into the new reporting framework.