



Children, Schools and Families Act 2010

2010 CHAPTER 26

PART 2

FAMILY PROCEEDINGS

11 Restriction on publication of information relating to family proceedings

- (1) This section applies in relation to any relevant family proceedings at which the public are not (or, in the case of proceedings which have already taken place, were not) entitled to be present.
- (2) The publication of information relating to the proceedings is a contempt of court committed by the publisher unless the publication of the information is—
 - (a) an authorised publication of the text, or a summary, of the whole or part of an order made or judgment given by the court in the proceedings (see section 12),
 - (b) an authorised news publication (see section 13), or
 - (c) authorised by rules of court.
- (3) Nothing in this section makes it a contempt of court to publish information with the permission of the court.
- (4) “Family proceedings” means family proceedings within the meaning of—
 - (a) section 65 of the Magistrates’ Courts Act 1980, or
 - (b) section 32 of the Matrimonial and Family Proceedings Act 1984.
- (5) Where proceedings are family proceedings at the time they are commenced and, but for this subsection, would later cease to be family proceedings, for the purposes of this section they continue to be family proceedings.
- (6) “Relevant family proceedings” means family proceedings other than—
 - (a) matrimonial causes and matters;
 - (b) applications under Part 3 of the Family Law Act 1986 (declarations of status);
 - (c) applications under section 27 of the Matrimonial Causes Act 1973 (financial provision where failure to maintain);

- (d) civil partnership causes and matters;
 - (e) applications under section 58 of the Civil Partnership Act 2004 (declarations relating to civil partnerships);
 - (f) applications under Part 9 of Schedule 5 to that Act (financial provision where failure to maintain);
 - (g) causes and matters relating to non-contentious or common form probate business (within the meaning of section 128 of the Senior Courts Act 1981).
- (7) The Lord Chancellor may, by order made by statutory instrument, amend the definition of “relevant family proceedings” in subsection (6).
- (8) An order under subsection (7) may make transitional provision or savings.
- (9) A statutory instrument containing an order under subsection (7) may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

12 Authorised publication of court orders and judgments

- (1) A publication of the text, or a summary, of the whole or part of an order made by a court in the proceedings is an authorised publication—
- (a) in a case where the proceedings are adoption proceedings or parental order proceedings or a case where the publication of the text or summary contains identification information relating to an individual involved in the proceedings, to the extent that the publication of the text or summary is permitted by the court for the purposes of this section, and
 - (b) in any other case, to the extent that the publication of the text or summary is not prohibited by, and does not breach any restriction imposed by, the court for the purposes of this section.
- (2) A publication of the text, or a summary, of the whole or part of a judgment given by a court in the proceedings is an authorised publication to the extent that the publication of the text or summary is permitted by the court for the purposes of this section.
- (3) The court may permit, prohibit or restrict publication for the purposes of this section on its own initiative or on the application of any interested person.
- (4) The court may permit publication for the purposes of this section subject to conditions specified by the court.
- (5) In this section—
- “adoption proceedings” means proceedings under the Adoption and Children Act 2002 (other than proceedings on an application for a placement order under section 22 of that Act);
 - “parental order proceedings” means proceedings for parental orders under section 30 of the Human Fertilisation and Embryology Act 1990 or section 54 of the Human Fertilisation and Embryology Act 2008.

13 Authorised news publications

- (1) A publication of information is an authorised news publication if the following conditions are met.

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- (2) Condition 1 is that the information was obtained by an accredited news representative by observing or listening to the proceedings when attending them in exercise of a right conferred on accredited news representatives by rules of court.
- (3) Condition 2 is that the publisher of the information—
 - (a) is the accredited news representative,
 - (b) publishes the information with the consent of, or pursuant to a contract or other agreement entered into with, that representative, or
 - (c) has obtained the information from a publication of information which is an authorised news publication.
- (4) Condition 3 is that —
 - (a) the information is not—
 - (i) identification information relating to an individual involved in the proceedings,
 - (ii) sensitive personal information relating to the proceedings, or
 - (iii) restricted adoption information or restricted parental order information,
 - (b) the information is information within paragraphs (i) to (iii) of paragraph (a) and the publication is permitted by the court for the purposes of this Condition, or
 - (c) the information is identification information relating to an individual involved in the proceedings (but not restricted adoption information or restricted parental order information) and the individual is a professional witness in the proceedings.
- (5) Condition 4 is that if the publication is—
 - (a) a publication of the text, or a summary, of an order made by a court in adoption proceedings or parental order proceedings, or
 - (b) a publication of the text, or a summary, of a judgment given by a court in relevant family proceedings,the publication is permitted by the court for the purposes of section 12.
- (6) Condition 5 is that the publication is not prohibited by, and does not breach any restriction imposed by, the court for the purposes of this condition or section 12.
- (7) The court may permit the publication of information for the purposes of Condition 3 or prohibit or restrict the publication of information for the purposes of Condition 5 on its own initiative or on the application of any interested person.

14 Permitting publication for purposes of section 13: general

- (1) This section applies where the court is determining whether to permit the publication of information for the purposes of Condition 3 in section 13 (except where section 15 applies).
- (2) The court may not permit the publication of the information unless it is satisfied of one or more of the following matters.
- (3) The matters are—
 - (a) that it is in the public interest to give the permission;

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- (b) that it is appropriate to give the permission so as to avoid injustice to a person involved in, referred to in or otherwise connected with the proceedings;
 - (c) that it is necessary to give the permission in the interests of the welfare of a child or vulnerable adult involved in, referred to in or otherwise connected with the proceedings;
 - (d) that an application for permission has been made by a party to the proceedings, or on behalf of a child who is the subject of the proceedings, and granting the permission is appropriate in all the circumstances.
- (4) The court must have regard to any risk which publication of the information would pose to the safety or welfare of any individual involved in, referred to in or otherwise connected with the proceedings.
- (5) The court may permit the publication subject to conditions specified by the court.

15 Permitting publication for purposes of section 13: adoption etc

- (1) This section applies where the court is determining whether to permit the publication of restricted adoption information or restricted parental order information for the purposes of Condition 3 in section 13.
- (2) “Restricted adoption information” means information the publication of which is likely to lead one or more persons—
- (a) to identify a person as—
 - (i) a prospective adopter of a child,
 - (ii) a person who has adopted a child, or
 - (iii) a person who has been, or may be, adopted, or
 - (b) to identify the whereabouts of a person identified as a person within subparagraph (i), (ii) or (iii) of paragraph (a).
- (3) “Restricted parental order information” means information the publication of which is likely to lead one or more persons—
- (a) to identify a person as—
 - (i) a person who has applied for a parental order,
 - (ii) a person in respect of whom a parental order has been made, or
 - (iii) a child in relation to whom a parental order has been, or may be, made, or
 - (b) to identify the whereabouts of a person identified as a person within subparagraph (i), (ii) or (iii) of paragraph (a).
- (4) If the person who has been or may be adopted or in relation to whom a parental order has been or may be made (“the affected person”)—
- (a) is a child,
 - (b) lacks capacity to consent to the publication, or
 - (c) cannot be found,
- the court may not permit the publication of the information unless it is satisfied that publication of the information would not prejudice the safety or welfare of the affected person.
- (5) In any other case where the affected person is alive, the court may not permit the publication except with the consent of the affected person.

- (6) The court must have regard to whether consent to the publication has been given by—
 - (a) in the case of restricted adoption information, any prospective adopter of, or person who has adopted, the child in question, and
 - (b) in the case of restricted parental order information, any person who applied for the parental order or in respect of whom the parental order has been made.
- (7) The court must have regard to any risk which publication of the information would pose to the safety or welfare of any individual involved in, referred to in or otherwise connected with the proceedings.
- (8) The court may permit the publication subject to conditions specified by the court.
- (9) For the purposes of this section—
 - “adoption” means adoption under the Adoption Act 1976 or the Adoption and Children Act 2002 (and related terms are to be construed accordingly);
 - “parental order” means a parental order under section 30 of the Human Fertilisation and Embryology Act 1990 or section 54 of the Human Fertilisation and Embryology Act 2008.

16 Prohibiting or restricting publication for purposes of section 13

- (1) The court may not prohibit or restrict the publication of information for the purposes of Condition 5 in section 13 unless subsection (2) or (3) applies (or both subsections apply).
- (2) This subsection applies if the court is satisfied that in the absence of the prohibition or restriction there is a real risk that the publication would prejudice—
 - (a) the safety of any person,
 - (b) the welfare of a child or vulnerable adult, or
 - (c) the interests of justice in the proceedings in question.
- (3) This subsection applies if the information is identification information relating to a professional witness in the proceedings and—
 - (a) the information is also identification information relating to—
 - (i) another individual involved in the proceedings (other than a professional witness in the proceedings), or
 - (ii) an individual otherwise connected with the proceedings,
 - (b) the information is also sensitive personal information relating to the proceedings, or
 - (c) the court is satisfied that the professional witness is, has been or will be involved in the care or treatment of an individual involved in, or otherwise connected with, the proceedings, otherwise than for the purpose of being a professional witness in the proceedings.

17 Defences to contempt of court

- (1) A person is not guilty of a contempt of court under section 11 by reason of the publication of information relating to relevant family proceedings if subsection (2), (3) or (4) applies.

- (2) This subsection applies if the person proves that at the time of the publication the person did not know and had no reason to suspect that the information was information relating to the proceedings.
- (3) This subsection applies if the person proves that—
 - (a) the person obtained the information from a previous publication, and
 - (b) at the time of the person’s publication the person did not know and had no reason to suspect that the previous publication was not an authorised news publication.
- (4) This subsection applies if the person proves that—
 - (a) the publication of the information would be an authorised news publication but for the failure to meet Condition 3 in section 13, and
 - (b) at the time of the publication the person did not know and had no reason to suspect that the information was—
 - (i) identification information relating to an individual involved in the proceedings,
 - (ii) sensitive personal information relating to the proceedings, or
 - (iii) restricted adoption information or restricted parental order information.

18 Appeals against decisions under section 12 or 13

- (1) Rules of court—
 - (a) may make provision about appeals against decisions within subsection (2) (including provision which modifies provision made by or under any Act as it applies to such appeals), and
 - (b) to the extent that provision is not made by or under any Act for appeals against such decisions, must make such provision (including provision about the route of such appeals).
- (2) Those decisions are—
 - (a) decisions to permit, or refuse to permit, publication of information for the purposes of section 12 or Condition 3 in section 13,
 - (b) decisions to impose, or refuse to impose, conditions on permission granted for those purposes, and
 - (c) decisions to prohibit or restrict, or refuse to prohibit or restrict, publication of information for the purposes of section 12 or Condition 5 in section 13.

19 Power to alter treatment of sensitive personal information

- (1) Schedule 1 (which contains amendments which alter the treatment under this Part of sensitive personal information) has effect.
- (2) In this section “the Part 2 amending provisions” means the provisions of that Schedule and any related repeal in Schedule 4.
- (3) The Lord Chancellor may not make an order under section 29(4) bringing into force any of the Part 2 amending provisions unless—
 - (a) an independent person appointed by the Lord Chancellor has carried out a review of the operation of this Part,

- (b) in carrying out the review the independent person consulted the public about the operation of this Part, and
 - (c) the conclusions of the review have been set out in a report which has been laid before Parliament.
- (4) No review for the purposes of subsection (3)(a) may be commenced before the end of the period of 18 months beginning with the time section 11 comes into force.
- (5) Where section 11 is initially brought into force for one or more specified purposes only, the reference in subsection (4) to the time that section comes into force is to the earliest time it comes into force for any purpose.
- (6) A statutory instrument containing an order under section 29(4) bringing into force any of the Part 2 amending provisions may not be made unless a draft of the instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

20 Independent review

- (1) The Lord Chancellor may not bring into effect the provisions set out in Schedule 1 to this Act, unless—
- (a) the Lord Chancellor has commissioned a full independent review and evaluation of—
 - (i) the operation of Part 2 of this Act, and
 - (ii) the impact of the new guidelines on reporting restrictions introduced on 27 April 2009,
 - (b) the conclusions of the independent review have been set out in a report which has been laid before Parliament.
- (2) No review for the purposes of subsection (1) may be commenced before the end of the period of 18 months beginning with the time section 11 comes into force and a full review has been completed of the findings from the pilot allowing for the publication of anonymised judgments alone.

21 Interpretation of Part 2, etc

- (1) In this Part—
- “accredited news representative”, in relation to any proceedings, means a representative of one or more news organisations who is a member of a class of representatives of news organisations on which rules of court confer a right to attend the proceedings;
 - “child” means a person under the age of 18;
 - “court” includes a judge and any person exercising the functions of a court or a judge;
 - “identification information”, in relation to an individual involved in or otherwise connected with proceedings, means—
 - (a) information, including in particular information as to any of the matters set out in subsection (2), the publication of which is likely to lead members of the public to identify the individual as someone who is or has been involved in or otherwise connected with the proceedings, and
 - (b) in a case where the individual is a child, information the publication of which is likely to lead members of the public to identify the address or

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school of the individual as being that of an individual who is or has been involved in or otherwise connected with the proceedings;

“judgment” includes a record produced by the court of its reasons for a decision;

“news organisation” means a news gathering or reporting organisation;

“professional witness”, in any proceedings, means a person—

- (a) who has given, or whom it is proposed will give, written or oral evidence in the proceedings in exchange for a fee, and
- (b) whose instruction by a party to the proceedings has been authorised by the court for the purposes of the proceedings;

“publication” includes disclosure or communication in any form to any person or persons;

“publisher” means—

- (a) where the information is published in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
- (b) where the information is published in a relevant programme—
 - (i) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included, and
 - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
- (c) in the case of any other publication of information, any person publishing it;

“relevant family proceedings” has the meaning given by section 11;

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990;

“restricted adoption information” has the meaning given by section 15;

“restricted parental order information” has the meaning given by section 15;

“sensitive personal information”, in relation to any proceedings, means information listed in Schedule 2.

(2) The matters referred to in the definition of “identification information” in subsection (1) are—

- (a) the name of the individual or any title, pseudonym or alias of the individual;
- (b) the address or locality of any place where the individual lives or works or is educated or taken care of;
- (c) the individual’s appearance or style of dress;
- (d) any employment or other occupation of, or position held by, the individual;
- (e) the individual’s relationship to particular relatives, or association with particular friends or acquaintances, of the individual;
- (f) the individual’s recreational interests;
- (g) the individual’s political, philosophical or religious beliefs or interests;
- (h) any property (whether real or personal) in which the individual has an interest or with which the individual is otherwise associated.

(3) For the purposes of this Part an individual is “involved” in proceedings if the individual—

- (a) is or was a party to the proceedings or the subject of the proceedings,

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- (b) is a person called, or whom it is proposed to call, as a witness in the proceedings, or
 - (c) is a person who has given written evidence in connection with the proceedings.
- (4) The Lord Chancellor may, by order made by statutory instrument, amend—
 - (a) the definition of “professional witness” in subsection (1);
 - (b) Schedule 2 (list of sensitive personal information).
- (5) An order under subsection (4) may make transitional provision or savings.
- (6) A statutory instrument containing an order under subsection (4) may not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Nothing in this Part prejudices any other power a court may have to prevent or restrict the publication of information relating to relevant family proceedings.
- (8) No provision of this Part (or of Part 2 of Schedule 3 or Part 2 of Schedule 4) applies in relation to relevant family proceedings concluded before the coming into force of the provision in question.