

CHILDREN, SCHOOLS AND FAMILIES ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Family Proceedings

Section 19: Power to alter treatment of sensitive personal information

74. This section introduces Schedule 1, which provides for amendments designed to change the way in which sensitive personal information is treated under the new reporting regime, from being a category of information which may not be published unless the court gives permission, to being information which, together with other information which is not identification information, may be published unless the court prohibits or restricts publication. These “Part 2 amending provisions” (as they are referred to in *subsection (2)*) include changes in the test which is to apply where the court is considering whether to restrict or prohibit the publication of information in section 16(2), to reflect the fact that information which is more sensitive will be more frequently in issue.
75. The Part 2 amending provisions will have effect only when commenced. *Subsections (3) to (6)* provide for preconditions for the exercise of the power to make an order commencing those provisions, to reflect the fact that the move in sensitive personal information from the starting version of the Act to the amended version is a significant one. The Lord Chancellor must first allow for a period of 18 months to elapse from commencement of section 11 (for any purposes, so that if it is commenced in relation to certain kinds of court, for example, that will start the time period running), and can then (and only then) arrange for a review of the operation of the reporting regime. The review must be carried out not by the Lord Chancellor, but by an independent person appointed by the Lord Chancellor; and the independent person must carry out public consultation as part of the review. A report setting out the conclusions of the review must then be laid before Parliament. Only when all three preconditions (18 month period, review by independent person, laying of report) have been fulfilled may the Lord Chancellor make the commencement order bringing the Part 2 amending provisions into force; and the commencement order itself is subject to affirmative resolution procedure. The Lord Chancellor does not have to commission a review or lay a report before Parliament; but may not commence the Part 2 amending provisions without having done so.