
EXPLANATORY NOTE

(This note is not part of the Rules)

These rules amend the Family Proceedings Rules 1991 (“the 1991 Rules”) in relation to the attendance of persons, in particular representatives of the media, during family proceedings heard in private and the communication of information regarding proceedings relating to children, giving effect, for family proceedings in the High Court and county courts, to policy changes arising out of the Ministry of Justice consultation *Confidence and confidentiality: openness in family courts – a new approach* (Cm 7131) and outlined in the response to consultation *Family Justice in View* (Cm 7502).

Rule 4 inserts into the 1991 Rules a new rule 10.28, which makes provision governing who may be present during a hearing in proceedings which are held in private (“in private” meaning when the general public have no right to be present). This in particular allows for duly accredited media representatives to be present, subject to a power for the court to direct their exclusion for all or a part of the proceedings for one of the reasons specified in paragraph (4) of the new rule.

Rule 5 inserts into the 1991 Rules a new Part XI, which replaces rule 10.20A, dealing with the communication of information relating to proceedings relating to children. New rule 11.1 defines the proceedings in relation to which the new rules apply, new rule 11.9 provides for interpretation of terms used in the new rules, and new rules 11.2 to 11.8 provide for communication of information. New rule 11.2 lists when it is permissible for the purposes of the law relating to contempt of court to communicate information: communication is allowed as a general rule to parties and their legal representatives and certain associated officers and professionals; or in more specific instances where the court gives permission, or (subject to any direction of the court) in accordance with rules 11.4 to 11.8. Paragraph (2) establishes that general publication, to the public at large or any section of the public, is not permitted by these rules; and paragraph (3) that where an unapproved draft judgment is handed down by a court, rules 11.4 to 11.8 do not allow for its disclosure. New rule 11.3 prohibits use of the rules so as to instruct an expert without the leave of the court and bars use without such leave of any evidence arising out of unauthorised instruction.