

CHILDREN AND FAMILIES ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – FAMILY JUSTICE

Section 10: Family mediation information and assessment meetings

101. *Subsection (1)* provides that any person who wishes to make a relevant family application must first attend a family mediation information and assessment meeting (a “MIAM”) to find out about and consider mediation, or other forms of non-court based dispute resolution. *Subsection (1)* does not make a distinction between applicants who are publicly funded and applicants who are not.
102. *Subsection (2)* enables provision to be made in Family Procedure Rules for how the requirement in *subsection (1)* is to work in practice. This may include provision:
 - Setting out circumstances in which the requirement to attend a MIAM before making an application to court will not apply (*subsection (2)(a)*). For example, Family Procedure Rules may provide that the requirement to attend will not apply in cases where the application is urgent or where a MIAM cannot be arranged within a specified time, or where there is evidence of domestic violence.
 - About how attendance at a MIAM is arranged and how a MIAM is to be conducted (*subsection (2)(b)*).
 - For the court to refuse to issue or otherwise deal with an application if the requirement to attend a MIAM should have, but has not, been complied with (*subsection (2)(c)*).
 - About the evidence which is to be considered when determining whether the requirement to attend a MIAM applies and, if so, whether it has been complied with (*subsection (2)(d)*).
103. *Subsection (3)* defines various terms used in *subsections (1)* and *(2)*. For example, it provides that a “relevant family application” is an application made in family proceedings that is of a description specified in Family Procedure Rules. The Government invited the Family Procedure Rule Committee to make provision in prospective Family Procedure Rules for the types of proceedings to which the MIAM requirement should apply. For example, that the requirement to attend a MIAM will apply (unless an exemption applies) in relation to an application for a child arrangements order. The FPRC is considering prospective draft rules.
104. *Subsection (4)* makes it clear that the powers in the section to make provision in Family Procedure Rules have no limiting effect on sections 75 and 76 of the Court Act 2003 (which provide the general power to make Family Procedure Rules, being rules regulating practice and procedure in family proceedings).