STATUTORY RULES OF NORTHERN IRELAND

2010 No. 115

COUNTY COURTS

The County Court (Amendment) Rules (Northern Ireland) 2010

Made - - - -	*16th March 2010*
Coming into operation	*9th April 2010*

The County Court Rules Committee makes the following Rules in exercise of the powers conferred by Article 47 of the County Courts (Northern Ireland) Order 1980(**1**).

Citation and commencement

1. These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2010 and come into operation on 9th April 2010.

2. In these Rules, a reference to an Order, rule, Appendix or Form is a reference to that Order, rule, Appendix or Form so numbered in the County Court Rules (Northern Ireland) 1981(**2**)("the principal Rules").

Amendments

3. In Order 50A of the principal Rules—

(a) in the heading for "30" substitute "54" and for "1990" substitute "2008";

(b) for rule 1(1) substitute—

"**Interpretation**

1.—(1) In this Order unless the context otherwise requires—

"the 1990 Act" means the Human Fertilisation and Embryology Act 1990(**3**) and expressions which are defined in the 1990 Act have the same meaning as in that Act;

"the 2008 Act" means the Human Fertilisation and Embryology Act 2008(**4**) and expressions which are defined in the 2008 Act have the same meaning as in that Act;

(**1**) S.I. 1980/397 (N.I.3) to which the most recent relevant amendment was made by the Constitutional Reform Act 2005 (c.4)
(**2**) S.R 1981 No. 225 to which the most recent amendment was made by S.R.2009 No. 176
(**3**) 1990 c.37
(**4**) 2008 c.22

"the 1987 Order" means the Adoption (Northern Ireland) Order 1987(**5**) and expressions which are defined in the 1987 Order have the same meaning as in that Order;

"chief clerk" means the chief clerk for the county court division in which the application is being made;

"the birth mother" means the woman who carried the child;

"the other parent" means any person, other than the birth mother, who is a parent of the child but is not one of the petitioners and includes any man who is the father by virtue of section 35 of the 2008 Act or any woman who is a parent by virtue of section 42 or 43 of the 2008 Act;

"the birth parents" means the birth mother and the other parent."

(c) in rule 2(2) for "husband and wife" substitute "the persons who may apply for a parental order pursuant to section 54 of the 2008 Act";

(d) in rule 4(1)(a) for "section 30(1) to (7) of the 1990 Act" substitute "section 54(1) to (8) of the 2008 Act".

4. In Order 52 of the principal rules, after rule 26 insert—

"PART IX

EXTRADITION ACT 2003

Interpretation

27. In this Part—

(a) "the Act" means the Extradition Act 2003(**6**);

(b) a section referred to by number means the section so numbered in the Act; and

(c) expressions which are defined in the Act have the same meaning in this Part as they have in the Act.

Application for live link direction

28.—(1) An application for a live link direction under section 206A of the Act shall be made by giving notice in Form 400.

(2) An application under paragraph (1) shall be made not less than 7 days before the day fixed for the hearing to which the application relates.

(3) The applicant shall serve a copy of the notice under paragraph (1) on—

(a) the chief clerk, and

(b) every other party to the proceedings.

(4) Any party who wishes to oppose the application shall, within 3 days of the date that the notice under paragraph (1) was served on him, notify the applicant and the chief clerk, in writing, of the grounds for the objection.

(5) Except where an objection is received in accordance with paragraph (4), the court may—

(**5**) S.I. 1987/2203 (N.I.22)

(**6**) 2003 c.41 to which the most recent relevant amendments were made by section 78 of the Policing and Crime Act 2009 (c.26)

(a) determine the application in favour of the applicant without a hearing; or

(b) direct a hearing.

(6) Where a party to the proceedings notifies the chief clerk in accordance with paragraph (4) of his opposition to the application, the chief clerk shall fix a date for the hearing of the application.

(7) Where a hearing is to take place in accordance with paragraphs (5) or (6), the chief clerk shall notify each party to the proceedings of the time and place of hearing.

(8) A party notified in accordance with paragraph (7) may be present at the hearing and may make representations in respect of the application.

(9) The chief clerk shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision in Form 401.

(10) The court may if it considers it is in the interest of justice to do so, allow an application required under this rule to be given in a different form, or orally.

Application for rescission of a direction

29.—(1) An application under section 206B of the Act to rescind a live link shall be made in writing and shall give reasons why the direction should be rescinded.

(2) An application under paragraph (1) shall be served on the chief clerk and on each party to the proceedings as soon as reasonably practicable.

(3) Paragraphs (4) to (10) of rule 28 shall apply to an application to rescind a live link direction as they apply to an application for a live link direction.".

5. In Appendix 1 to the principal Rules—

(a) for Form 389 substitute Form 389 as set out in Schedule 1 to these Rules;

(b) in Form 393, for "section 30 of the Human Fertilisation and Embryology Act 1990" substitute "section 54 of the Human Fertilisation and Embryology Act 2008" and omit the words "Parental Orders (Human Fertilisation and Embryology) Regulations 1994" ; and

(c) after Form 399, insert new Forms 400 and 401 as set out in Schedule 2 to these Rules.

Savings

6. Order 50A of the principal Rules, as it applied before these Rules come into operation, shall continue to have effect in relation to any application under section 30 of the 1990 Act filed before these Rules come into operation.

The undersigned members of the County Court Rules Committee certify these Rules and submit them to the Lord Chancellor.

T.A. Burgess
Philip Babington
Dorcas Crawford
Nigel McCombe
Barry Valentine
A E Wells
Nigel Elliott

Dated 10th March 2010
In exercise of the powers conferred by Article 47(4) of the County Courts (Northern Ireland) Order 1980 and after consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 9th April 2010.
Signed by the authority of the Lord Chancellor.

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

Dated 16th March 2010

SCHEDULE 1 Rule 5(a)

"No. 389

Petition for a Parental Order

(O.50A, RULE 2)

No. of 20

IN THE COUNTY COURT/RECORDER'S COURT for the Division of

IN THE MATTER OF the Human Fertilisation and Embryology Act 2008

IN THE MATTER OF [ ] a child.

We, the undersigned and
wishing to have a Parental Order made in respect of , a child, hereby give the following particulars in support of our application.

Part 1 – Particulars of the child

(a) The birth name of the child ……
(b) The child is a boy …… a girl …… (*please tick*)
(c) The child was born on the …..day of……20….
(d) The address where the child was born ……
(e) The address where the child lives now ……..
(f) The parental rights and duties relating to the child are vested in ……
(g) The name(s) of the child if a Parental Order is made ……

Part 2 – Particulars of the petitioners

1st petitioner

(a) Your full name ……..
(b) Your occupation ……..
(c) Are you a genetic parent of the child? Yes …… No …… (*please tick*)

2nd petitioner

(a) Your full name ……..
(b) Your occupation ……..
(c) Are you a genetic parent of the child? Yes …… No …… (*please tick*)

Both applicants

Your address is ……

Part 3 – Particulars of birth parents

The birth mother

(a) Full name ……..
(b) Full address ……..

The other parent (if applicable)

(a) Full name ……..
(b) Full address ……..