STATUTORY RULES OF NORTHERN IRELAND

2003 No. 75

FAMILY PROCEEDINGS
SUPREME COURT
COUNTY COURTS

The Family Proceedings (Amendment) Rules (Northern Ireland) 2003

Made - - - -	*14th February 2003*
To be laid before Parliament	
Coming into operation	*1st June 2003*

We, the Family Proceedings Rules Committee, in exercise of the powers conferred on us by Article 12 of the Family Law (Northern Ireland) Order 1993(**1**) hereby, with the concurrence of the Lord Chancellor, make the following Rules:–

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Family Proceedings (Amendment) Rules (Northern Ireland) 2003 and shall come into operation on 1st June 2003.

2. In these Rules "the Principal Rules" means the Family Proceedings Rules (Northern Ireland) 1996(**2**).

3. In rule 1.3 of the Principal Rules –

(a) in the definition of "Board", after the word "means" there shall be inserted the words "subject to Part IVB"; and

(b) in the definition of "child" and "child of the family", after the words "except in Part IV" there shall be inserted the words "or Part IVB".

4. After rule 4.27 of the Principal Rules there shall be inserted the rules set out in Schedule 1.

5. After Form F9 in Appendix 1 to the Principal Rules there shall be added the forms set out in Schedule 2.

(**1**) S.I.1993/1576 (N.I. 6)
(**2**) S.R. 1996 No. 322, as amended by S.R. 1999 No. 88, S.R. 2000 No. 329 and S.R. 2002 No. 137

6. After Appendix 3 to the Principal Rules there shall be added the Appendix set out in Schedule 3.

Saving

7. Nothing in these Rules shall affect any proceedings commenced before these Rules come into operation.

R. D. Carswell
J. Gillen
R. McLaughlin
David Smyth
F. Brian Hall
M. McReynolds
Barry Malcolm
Kate Finlay
Dated 11th February 2003. *Anne Marie Kelly*

I concur

Dated 14th February 2003 *Irvine of Lairg,* C.

SCHEDULE 1 Rule 4

PART IVA

FREEING FOR ADOPTION AND ADOPTION ORDERS

Introductory

Interpretation

4A.1.—(1) In this Part and Parts IVB and IVC, unless the context otherwise requires –

"the 1976 Act" means the Adoption Act 1976(**3**);

"the 1978 Act" means the Adoption (Scotland) Act 1978(**4**);

"the Order of 1987" means the Adoption (Northern Ireland) Order 1987(**5**), and –

(a) a reference to an Article by number is a reference to that Article as numbered in that Order; and

(b) expressions which are defined in the Order of 1987 have the same meaning as in that Order;

"adoption agency" means a Board or a registered adoption society which is an accredited body for the purposes of the Convention(**6**);

"parental responsibility" has the same meaning as in the Order of 1995;

"application" means an application made under or by virtue of the Order of 1987 or under these Rules and "applicant" shall be construed accordingly;

"Board" means a Health and Social Services Board or, as the case may be, a Trust;

"CA of the receiving State" means, in relation to a Convention country(**7**) other than the United Kingdom, the Central Authority of the receiving State;

"CA of the State of origin" means, in relation to a Convention country other than the United Kingdom, the Central Authority of the State of origin;

"Central Authority" means the Department of Health, Social Services and Public Safety;

"the child" means the person whom the applicant for an adoption order or an order authorising a proposed foreign adoption proposes to adopt, or, as the case may be, the person the adoption agency proposes should be freed for adoption;

"Convention" means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993;

"Convention country" means any country or territory in which the Convention is in force;

(**3**) 1976 c. 36
(**4**) 1978 c. 28
(**5**) S.I.1987/2203 (N.I. 22) as amended by S.I.1994/429 (N.I. 2), S.I. 1995/755 (N.I. 2) and 2001 c. 11 (N.I.)
(**6**) Section 2(3) of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 c. 11 (N.I.) provides that a registered adoption society is an accredited body for the purposes of the Convention if its registration extends to the provision of facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders
(**7**) The term "Convention country" is defined in Article 2(2) of the Order of 1987, as amended by section 6 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

"Convention proceedings" means proceedings in the High Court or a county court for a Convention adoption order or in connection with a Convention adoption order or a Convention adoption(**8**);

"Hague Convention Regulations" means the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003(**9**);

"interim order" means an order under Article 26;

"the Master" means the Master (Care and Protection) or, as the case may be, the chief clerk;

"medical practitioner" has the meaning assigned by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972(**10**);

"the Office" means the Office of Care and Protection or, where appropriate, the office of the chief clerk for the county court division in which proceedings are pending;

"order authorising a proposed foreign adoption" means an order under Article 57;

"receiving State" means the State in which it is proposed that the child will become habitually resident;

"regular armed forces of the Crown" means the Royal Navy, the Regular Armed Forces as defined by section 225 of the Army Act 1955(**11**), the Regular Air Force as defined by section 223 of the Air Force Act 1955(**12**), the Queen Alexandra's Royal Naval Nursing Service and the Women's Royal Naval Service;

"State of origin" means the State in which the child is habitually resident.

Proceedings

4A.2. Any hearing of an application shall be dealt with in chambers unless the court otherwise directs.

Freeing for Adoption

Commencement of proceedings under Article 17

4A.3.—(1) An application under Article 17 (freeing child for adoption with parental agreement) for an order freeing a child for adoption shall be made in Form A1 issued out of the Office.

(2) The applicants shall be the adoption agency and each parent or guardian of the child and the respondents shall be –

(a) any Board or voluntary organisation that has parental responsibility for, is looking after, or is caring for the child;

(b) any person (not being an applicant) liable by virtue of any order or agreement to contribute to the maintenance of the child; and

(c) the child.

(3) The court may at any time direct that any other person or body be made a respondent to the application.

(4) On filing the application the applicant shall pay the appropriate fee and supply three copies of: –

(**8**) The terms "Convention adoption order" and "Convention adoption" are defined in Article 2(2) of the 1987 Order, as amended by section 6 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001
(**9**) S.R. 2003 No. 16
(**10**) S.I. 1972/1265 (N.I. 14)
(**11**) 1955 c. 18
(**12**) 1955 c. 19

(a) the application, together with any other documents required to be supplied under this Part, and

(b) a report, in writing, covering all the relevant matters specified in Part I of Appendix 4.

Commencement of proceedings under Article 18

4A.4.—(1) An application under Article 18 (Freeing child for adoption without parental agreement) for an order freeing a child for adoption shall be made in Form A2 issued out of the Office.

(2) The applicant shall be the adoption agency and the respondents shall be each parent or guardian of the child and those persons prescribed by rule 4A.3(2).

(3) The court may at any time direct that any other person or body be made a respondent to the application.

(4) There shall be attached to the application a statement of the facts upon which the applicant intends to rely for the purpose of satisfying the court that the agreement of each parent or guardian of the child to the making of an adoption order ought to be dispensed with on a ground specified in Article 16(2).

(5) Where the applicant has been informed by a person with whom the child has been placed for adoption that he wishes his identity to remain confidential, the statement of facts supplied under paragraph (4) shall be framed in such a way as not to disclose the identity of that person.

(6) Except where the request for dispensation is based on the ground that the parent or guardian cannot be found, the Master shall, as soon as practicable, inform the parent or guardian of the request to dispense with his agreement and shall send him a copy of the statement supplied under paragraph (4).

(7) On filing the application the applicant shall pay the appropriate fee and supply three copies of: –

(a) the application, together with any other documents required to be supplied under this Part;

(b) a report in writing covering all the relevant matters specified in Part I of Appendix 4.

(c) the statement of facts.

Appointment of guardian ad litem

4A.5.—(1) As soon as practicable after the application has been filed, the Master shall appoint a guardian ad litem of the child, and shall send to him a copy of the application and any documents attached thereto and of the report supplied by the applicant and that report shall be confidential.

(2) The guardian ad litem shall not be a member or employee of the applicant or any respondent body nor have been involved in the making of any arrangements for the adoption of the child.

Duties of the guardian ad litem

4A.6.—(1) The guardian ad litem shall: –

(a) ensure, so far as is reasonably practicable, that any agreement to the making of an adoption order is given freely and unconditionally and with full understanding of what is involved;

(b) confirm that the parent or guardian has been given an opportunity of making a declaration under Article 17(5), that he prefers not to be involved in future questions concerning the adoption of the child;

(c) investigate all the circumstances relevant to any such agreement or declaration;