STATUTORY RULES OF NORTHERN IRELAND

1999 No. 63

MAGISTRATES' COURTS

Magistrates' Courts (Children (Northern Ireland) Order 1995) (Amendment) Rules (Northern Ireland) 1999

Made - - - - 14th February 1999

Coming into operation in accordance with Rule 1

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(**1**) and Articles 71 and 165 of the Children (Northern Ireland) Order 1995(**2**) and all other powers enabling him in that behalf, on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Magistrates' Courts (Children (Northern Ireland) Order 1995) (Amendment) Rules (Northern Ireland) 1999 and shall come into operation on the same day as Article 29 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 comes into operation.

(2) The Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996(**3**) shall be amended in accordance with the following provisions of these Rules and, in those provisions, any reference to a rule by number alone shall be construed as a reference to the rule so numbered in the said Rules of 1996.

Service

2. In rule 9, for the words "Rule 11" there shall be substituted the words "Rule 11 and rule 13".

Disclosure of documents

3. Rule 23 shall be amended by—

(a) in paragraph (1), substituting for the words "paragraphs (2) and (3)" the words "paragraphs (2) to (4)"; and

(**1**) S.I.1981/1675 (N.I. 26)
(**2**) S.I. 1995/755 (N.I. 2)
(**3**) S.R. 1996 No. 323

(b) adding, after paragraph (3), the following new paragraph—

"(4) Nothing in paragraph (1) shall prevent the disclosure of a document prepared by a guardian ad litem for the purpose of—

(a) enabling a person to perform functions required by regulations made under Article 60(7);

(b) assisting a guardian ad litem who is appointed under any enactment to perform his functions.".

Amendments consequential to the Family Homes and Domestic Violence (Northern Ireland) Order 1998(4)

4.—(1) For rule 25 there shall be substituted the following new rule—

"**Notification of Consent**

25.—(1) Consent for the purposes of—

(a) Article 16(3), or

(b) Article 33(3)(c) or (d), or

(c) Article 57A(2)(b)(ii), or

(d) Article 63A(2)(b)(ii)

may be given either orally in court or in writing signed by the person giving the consent.

(2) Any written consent given for the purposes of paragraph (2) of Article 57A or Article 63A shall include a statement that the person giving consent—

(a) is able and willing to give to the child the care which it would be reasonable to expect a parent to give him; and

(b) understands that the giving of consent could lead to the exclusion of the relevant person from the dwelling-house in which the child lives.".

5. After rule 25, there shall be inserted the following new rule—

"**Exclusion requirements: interim care orders and emergency protection orders**

25A.—(1) This rule applies where the court includes an exclusion requirement in an interim care order or an emergency protection order.

(2) The applicant shall—

(a) prepare a separate statement of the evidence in support of the inclusion of an exclusion requirement;

(b) serve the statement on the relevant person with a copy of the order containing the exclusion requirement;

(c) inform the relevant person of his right to apply to vary or discharge the exclusion requirement.

(3) The relevant person shall serve the parties to the proceedings with any application which he makes for the variation or discharge of the exclusion requirement.

(4) Where an exclusion requirement ceases to have effect whether—

(a) as a result of the removal of a child under Article 57A(6) or Article 63A(6),

(4) S.I. 1998/1071 (N.I. 6)

(b) because of the discharge of the interim care order or emergency protection order, or

(c) otherwise,

the applicant shall inform—

(i) the relevant person,

(ii) the parties to the proceedings; and

(iii) (where necessary) the court.

(5) Where the court includes an exclusion requirement in an interim care order or an emergency protection order of its own motion, paragraph (2) shall apply with the omission of any reference to the statement of the evidence.

(6) In this rule—

"the applicant" means the person who initiated the proceedings in which the interim care order or the emergency protection order is made;

"exclusion requirement" means one or more of the provisions referred to in Article 57A(3) or, as the case may be, Article 63A(3); and

"relevant person" has the same meaning as in Article 57A(2)(a) or, as the case may be, Article 63A(2)(a).".

Forms

6. There shall be substituted for Forms C8, C20 and C28 in Schedule 1 to the Magistrates' Courts (Children (Northern Ireland) Order 1995) Rules (Northern Ireland) 1996 the Forms contained in the Schedule to these Rules.

Saving

7. Nothing in rules 2 to 6 shall apply to proceedings commenced before these rules came into operation.

Dated 14th February 1999 *Irvine of Lairg, C.*

SCHEDULE Rule 6

FORM C8SUPPLEMENT FOR AN APPLICATION FOR AN EMERGENCY PROTECTION ORDER*Article 63 Children (Northern Ireland) Order 1995*

of FAMILY PROCEEDINGS COURT AT

Applicant

of

Respondent COUNTY COURT DIVISION OF

1 Description of the child(ren)

If a child's identity is **not** known, state details which will identify the child. You may enclose a recent photograph of the child, which should be dated.

2 The grounds for the application

The grounds are

ANY APPLICANT A ☐ that there is reasonable cause to believe that [this] [these] child[ren] [is] [are] likely to suffer significant harm if

☐ the child[ren] [is] [are] not removed to accommodation provided by or on behalf of this applicant

or ☐ the child[ren] [does] [do] not remain in the place where [the child] [they] [is] [are] currently being accommodated.

BOARD OR TRUST APPLICANTS B ☐ that enquiries are being made about the welfare of the child[ren] under Article 66(1)(*b*) of the Children (Northern Ireland) Order 1995 **and** those enquiries are being frustrated by access to the child[ren] being unreasonably refused to someone who is authorised to seek access **and** there is reasonable cause to believe that access to the child[ren] is required as a matter of urgency.

AUTHORISED PERSON APPLICANTS C ☐ that there is reasonable cause to suspect that the child[ren] [is] [are] suffering, or [is] [are] likely to suffer, significant harm **and** enquiries are being made with respect to the welfare of the child[ren] **and** those enquiries are being frustrated by access to the child[ren] being unreasonably refused to someone who is authorised to seek access **and** there is reasonable cause to believe that access to the child[ren] is required as a matter of urgency.