1989 No. 343

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment No. 6) 1989

Made	*26th July 1989*
Coming into operation . .	*1st October 1989*
To be laid before Parliament	

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(**a**) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows:

Citation and commencement

1. These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 6) 1989 and shall come into operation on 1st October 1989.

Adoption

2. The Rules of the Supreme Court (Northern Ireland) 1980(**b**) shall be amended by inserting the Order and Appendices set out in the Schedule, in the places appropriate to their number and letter.

Revocation

3. Part II of Order 73 and Forms 31 to 40 in Appendix L of the Rules of the Supreme Court (Northern Ireland) 1936(**c**) are hereby revoked.

Dated: 14th June 1989

Brian Hutton
John MacDermott
Donald Murray
J. P. Higgins
Hugh P. Kennedy
Brian Kerr
Owen Catchpole

I concur

Mackay of Clashfern, C.

Dated: 26th July 1989

(**a**) 1978 c. 23
(**b**) S.R. 1980 No. 346
(**c**) S.R. & O. 1936 No. 70 as amended by S.R. & O. 1969 No. 288

ORDER 84

Adoption

PART I

INTRODUCTORY

Interpretation

1. In this Order, unless the context otherwise requires—

"the 1967 Act" means the Adoption Act (Northern Ireland) 1967(**a**);

"the 1968 Act" means the Children and Young Persons Act (Northern Ireland) 1968(**b**);

"the 1969 Act" means the Adoption (Hague Convention) Act (Northern Ireland) 1969(**c**);

"the 1987 Order" means the Adoption (Northern Ireland) Order 1987 and reference to an Article by number means the Article as numbered in that Order(**d**);

reference to a Form by number is a reference to the Form as numbered in Appendix F;

"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;

"a child freed for adoption" has the same meaning as in Article 16(1)(*a*);

"Convention proceedings" means proceedings on an application for a Convention adoption order and proceedings under the 1969 Act;

"interim order" means an order under Article 26;

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

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

"the Office" means the Office of Care and Protection and "the Master" means the Master (Care and Protection);

expressions which are defined in the 1987 Order have the same meaning as in that Order.

Proceedings

2. Any hearing of an application under the 1987 Order shall be dealt with in chambers unless the court otherwise directs.

(**a**) 1967 c. 35 (N.I.)
(**b**) 1968 c. 34 (N.I.)
(**c**) 1969 c. 22 (N.I.)
(**d**) S.I. 1987/2203 (N.I. 22)
(**e**) 1955 c. 18
(**f**) 1955 c. 19

PART II

FREEING FOR ADOPTION

Commencement of proceedings under Article 17

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 by originating summons in Form 1 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 having the powers and duties of a parent or guardian of the child by virtue of an order made under the 1968 Act committing him to its care as a fit person;

(*b*) any Board in whom the parental rights and duties in respect of the child are vested by virtue of an order made under section 104 of the 1968 Act;

(*c*) any Board in whose care the child is under section 103 of the 1968 Act or under or within the meaning of any other enactment;

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

(*e*) the child.

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

(4) On filing the originating summons the applicant shall pay the appropriate fee and supply three copies of:—

(*a*) the originating summons together with any other documents required to be supplied under this Order, and

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

Commencement of proceedings under Article 18

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 by originating summons in Form 2 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 3.

(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 summons 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 originating summons the petitioner shall pay the appropriate fee and supply three copies of:—

(*a*) the originating summons together with any other documents required to be supplied under this Order;

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

(*c*) the statement of facts.

Appointment of guardian ad litem

5.—(1) As soon as practicable after the originating summons has been filed, the Master shall appoint a guardian ad litem of the child, and shall send to him a copy of the originating summons 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 be an officer of a Board or a person employed by another organisation approved by the Department provided that there shall not be appointed under this Rule—

(*a*) any person who has been involved in the making of arrangements for the adoption of the child; or

(*b*) any person employed by an organisation, not being a Board, which was so involved.

Duties of guardian ad litem

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;

(*d*) where it is proposed to free an illegitimate child for adoption and his father is not his guardian, take all reasonable steps to identify the father in order to serve the notice required by Article 17(6);

(*e*) on completing his investigations make a report in writing to the court, drawing attention to any matters which, in his opinion, may be of assistance to the court in considering the application, and shall notify the applicant that he has done so.

(2) With a view to safeguarding the interests of the child before the court, the guardian ad litem shall, so far as is reasonably practicable—

(*a*) investigate—

(i) the matters alleged in the originating summons, the report supplied by the applicant and, where appropriate, the statement of facts supplied under rule 4, and

(ii) any other matters which appear to him to be relevant to the making of an order freeing the child for adoption;

(*b*) advise whether, in his opinion, the child should be present at the hearing of the application; and

(*c*) perform such other duties as appear to him to be necessary or as the court may direct.

(3) With a view to obtaining the directions of the court on any matter, the guardian ad litem may at any time make such interim report to the court as appears to him to be necessary and in such a case the Master shall notify the applicant.

(4) The court may, at any time before the final determination of the application, require the guardian ad litem to perform such further duties as the court considers necessary.

(5) The guardian ad litem shall attend any hearing of the application if so required by the court.

(6) Any report made to the court under this rule shall be confidential.

Agreement

7.—(1) Any document signifying the agreement of a person to the making of an adoption order shall be in Form 3, and, shall, if executed in Northern Ireland, be witnessed by a Justice of the Peace.

(2) If the document is executed in Scotland it shall be witnessed by a Justice of the Peace or a Sheriff.

(3) If the document is executed in England and Wales it shall be witnessed by a Justice of the Peace.

(4) If the document is executed outside the United Kingdom it shall be witnessed by one of the following persons—

(*a*) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose;

(*b*) a British consular officer;

(*c*) a notary public; or

(*d*) if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.

(5) If the document is executed by a person outside Northern Ireland before the commencement of the proceedings it shall be filed with the originating summons.

Notice of hearing

8.—(1) Within 14 days of being notified by the guardian ad litem that he has made his report to the court, the applicant shall apply to the Master to fix a date for the hearing of the application.

(2) On an application under paragraph (1) the Master shall fix a date and time for the hearing and shall take account of any directions given under paragraph (5) and rule 10(3).

(3) The Master shall inform the applicant and the guardian ad litem of the date and time fixed for the hearing and the applicant shall serve notice of the hearing on all the parties in Form 4.

(4) Any one who wishes to object to the making of an order freeing the child for adoption shall within 14 days of the date of service on him of the notice of hearing give the Master written notice of his intention to object in Form 4A.

(5) If at any stage before the hearing of the application it appears to the court that directions for the hearing are required the court may give such directions as it considers necessary.

Objections

9.—(1) Where the Master receives notice of objection under rule 8 he shall notify the judge, the applicant or his solicitor and the guardian ad litem and the judge shall give such directions as appear appropriate.