1989 No. 307

COUNTY COURTS

County Courts (Amendment No. 3) Rules (Northern Ireland) 1989

Made	*26th July 1989*
Coming into operation . .	*1st October 1989*

We, the County Court Rules Committee, appointed by the Lord Chancellor under Article 46 of the County Courts (Northern Ireland) Order 1980(**a**), in exercise of the powers conferred on us by Article 47 of that Order, and all other powers enabling us in that behalf, hereby make the following rules:—

Citation

1. These Rules may be cited as the County Court (Amendment No. 3) Rules (Northern Ireland) 1989.

Interpretation

2. In these rules a reference to an Order, Appendix or Form is a reference to that Order, Appendix or Form as numbered in the County Court Rules (Northern Ireland) 1981(**b**).

Amendment of County Court Rules (Northern Ireland) 1981

3.—(1) For Order 50 there shall be substituted the Order set out in Schedule 1.

(2) Appendix 1 shall be amended by substituting for Forms 249-262 the new Forms set out in Schedule 2.

We, the undersigned members of the County Court Rules Committee, having by virtue of the powers vested in us in this behalf made the foregoing rules, hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

John K. Pringle
J. F. B. Russell
S. D. Massey
K. G. Nixon
John J. Curran
Raymond Kerr
Peter J. Cush
Brian F. Walker

(**a**) S.I. 1980/397 (N.I. 3)
(**b**) S.R. 1981 No. 225

After consultation with the Lord Chief Justice I allow these Rules which shall come into operation on 1st October 1989.

Dated 26th July 1989 *Mackay of Clashfern*, C.

SCHEDULE 1 Rule 2(1)

ORDER 50

Adoption

PART I

PRELIMINARY

Interpretation

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

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

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

(*c*) "the 1987 Order" means the Adoption (Northern Ireland) Order 1987(**c**) and references to an Article by number means the Article so numbered in that Order;

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

(*e*) "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;

(*f*) "former parent" has the meaning assigned by Article 19;

(*g*) "interim order" means an order under Article 26;

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

(*i*) "order authorising a proposed foreign adoption" means an order under Article 57;

(*j*) "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.

(*k*) expressions which are defined in the 1987 Order have the same meaning as in that Order.

(2) In this Order "a child freed for adoption" has the same meaning as in Article 16(1)(*a*).

(3) The notes appended to Forms 249-262 do not form any part thereof and are so appended only for the purpose of assisting in their proper completion.

(**a**) 1967 c. 35 (N.I.)
(**b**) 1968 c. 34 (N.I.)
(**c**) S.I. 1987/2203 (N.I. 22)
(**d**) S.I. 1972/1265 (N.I. 14)
(**e**) 1955 c. 18
(**f**) 1955 c. 19

PART II

FREEING FOR ADOPTION

Commencement of proceedings under Article 17

2.—(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 petition in Form 249.

(2) The petitioners 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 (other than a petitioner) liable by virtue of any order or agreement to contribute to the maintenance of the child; and

(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 petition the petitioners shall pay the appropriate fee and supply three copies of:—

(*a*) the petition, 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 Form 249B.

Commencement of proceedings under Article 18

3.—(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 petition in Form 249A.

(2) The petitioner shall be the adoption agency and the respondents shall be each parent or guardian of the child and those persons prescribed by Rule 2(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 petition a statement of the facts upon which the petitioner 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 petitioner 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 chief clerk 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 petition the petitioner shall pay the appropriate fee and supply three copies of:—

(*a*) the petition together with any other documents requested to be supplied under this Order,

(*b*) a report in writing covering all the relevant matters specified in Form 249B;

(*c*) the statement of facts.

Appointment of guardian ad litem

4.—(1) As soon as practicable after the petition has been filed the chief clerk shall appoint a guardian ad litem of the child, and shall send to him a copy of the petition and any documents attached thereto and of the report supplied by the petitioner which 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;

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

(3) Rule 15 of Order 3 shall not apply to the appointment of a guardian ad litem under this Rule.

Duties of guardian ad litem

5.—(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 petitioner 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 petition, the report supplied by the petitioner and, where appropriate, the statement of facts supplied under rule 3, 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 not 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.