1989 No. 306

COUNTY COURTS

County Court (Amendment No. 2) Rules (Northern Ireland) 1989

Made . . . . . *26th July 1989*

Coming into operation . . *1st September 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. 2) Rules (Northern Ireland) 1989.

Interpretation

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

Amendment of the County Court Rules (Northern Ireland) 1981

3.—(1) Order 1 shall be amended by revoking rule 10.

(2) Order 49 shall be amended by revoking rule 7 and by deleting the words "OR 2" from the title of Part VI.

(3) Order 51 shall be amended by the addition, after Rule 11, of the new rules set out in Schedule 1.

(4) Appendix 1 shall be amended as follows:—

(*a*) by removing Forms 246 to 248;

(*b*) by inserting the new Forms 308 to 313 set out in Schedule 3.

Applications for Declarations under the Matrimonial and Family Proceedings (Northern Ireland) Order 1989

4. The new rules set out in Schedule 2 shall be inserted as Order 53.

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

Saving for previous application of pre-existing rules

5. Nothing in these Rules shall affect any proceedings under section 2 of the Legitimacy Act (Northern Ireland) 1928(**a**) commenced before the coming into operation of these Rules.

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, do 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 Keer
Peter J. Cush
Brian F. Walker

Dated 27th June 1989

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

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

(a) 1928 c. 5 (N.I.)

SCHEDULE 1 Rule 3(3)

Rules to be inserted in Order 51

PART III

REGISTRATION OF MAINTENANCE ORDERS UNDER PART II OF THE MAINTENANCE AND AFFILIATION ORDERS ACT (NORTHERN IRELAND) 1966

Interpretation

12. In this Part—

"the Act" means the Maintenance and Affiliation Orders Act (Northern Ireland) 1966(**a**);

"maintenance order" has the meaning assigned to it by section 10(2) of the Act.

Application for registration

13.—(1) An application under section 11 of the Act for the registration in a court of summary jurisdiction of a maintenance order made by a county court may be made—

(*a*) on the making of the maintenance order or an order varying the maintenance order; or

(*b*) at any other time by lodging with the chief clerk a certified copy of the maintenance order and an affidavit by the applicant, together with a copy thereof, stating—

(i) the address and occupation of the person liable to make payments under the maintenance order;

(ii) the reason why registration of the maintenance order in a court of summary jurisdiction is desired;

(iii) the amount of any arrears due to the applicant under the maintenance order, the date to which those arrears have been calculated and the date on which the next payment falls due;

(iv) the date of birth of each child (if any) named in the maintenance order;

(v) that the maintenance order is not already registered under the Act; and

(vi) whether any proceedings are pending for the enforcement of the maintenance order.

(2) The chief clerk on receipt of the certified copy of a maintenance order and accompanying affidavit shall refer the application to the judge in chambers.

(3) Where the application is granted on the making of the maintenance order or an order varying the maintenance order the applicant shall lodge a statement signed by the applicant or his solicitor, and a copy thereof, giving the address of the person entitled to receive payments under the maintenance order and the particulars mentioned in paragraph (1)(*b*)(i), (iii) and (iv).

(4) The period required to be prescribed for the purpose of section 11(2) of the Act shall be 14 days.

(5) The chief clerk shall send the certified copy of the maintenance order, as required by the said section 11(2), to the clerk of petty sessions acting for the petty sessions district in which the defendant appears to be, indorsed with a note that the application for registration of the maintenance order has been granted and to be

(**a**) 1966 c. 35 as amended by Article 42(1) of, and Schedule 2 to, the Matrimonial and Family Proceedings (Northern Ireland) Order 1989, S.I. 1989/677 (N.I. 4)

accompanied by a copy of the affidavit or statement lodged under paragraph (1) or (3), as the case may be.

(6) On receipt of notice that a maintenance order made by a county court has been registered in a court of summary jurisdiction in accordance with section 11(5) of the Act the chief clerk shall enter particulars of the registration in the court minutes.

Variation or discharge of registered order

14.—(1) Where a county court makes an order varying or discharging a maintenance order registered in a court of summary jurisdiction under Part II of the Act, the chief clerk shall send a certified copy of the first-mentioned order to the clerk of petty sessions concerned.

(2) Where a certified copy of an order varying a maintenance order made by a county court and registered in a court of summary jurisdiction under Part II of the Act is received from the clerk of petty sessions, the chief clerk shall file the copy and enter particulars of the variation in the court minutes.

Cancellation of registration

15. On receipt of notice from a clerk of petty sessions that the registration in a court of summary jurisdiction under Part II of the Act of a maintenace order made by a county court has been cancelled, the chief clerk shall enter particulars of the cancellation in the court minutes.

SCHEDULE 2 Rule 4

Rules to be inserted as Order 53

ORDER 53

Applications for Declarations under Part V of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989

PART I

INTERPRETATION

Interpretation

1. In this Order "the Order" means the Matrimonial and Family Proceedings (Northern Ireland) Order 1989.

PART II

DECLARATIONS AS TO LEGITIMACY OR LEGITIMATION

Commencement of Proceedings

2.—(1) An application under Article 32 of the Order for a declaration as to legitimacy or legitimation shall be commenced by petition in Form 308.

(2) There shall be attached to the petition a copy of the petitioner's birth certificate.

3. The petitioner's father and mother, or the survivor of them, shall be respondents to the application.

PART III

DECLARATIONS AS TO ADOPTIONS EFFECTED OVERSEAS

Commencement of Proceedings

4.—(1) An application under Article 33 of the Order for a declaration as to an adoption effected overseas shall be commenced by petition in Form 309.

(2) There shall be attached to the petition a copy of the petitioner's birth certificate (if it is available, this should be the certificate made after the adoption referred to in the petition) and a certified copy of the adoption order effected under the law of any country outside the United Kingdom, the Channel Islands and the Isle of Man.

(3) Where a document produced by virtue of paragraph (2) is not in English it shall be accompanied by a translation certified by a notary public or authenticated by affidavit.

5. The following persons shall, if alive, be respondents to the application—

(*a*) those whom the petitioner claims are his adoptive parents for the purposes of Article 40 of the Adoption (Northern Ireland) Order 1987(**a**);

(*b*) those whom the petitioner claims are not his adoptive parents for the purpose of that Article.

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