1989 No. 287

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (Amendment No. 3) 1989

Made	*21st July 1989*
Coming into operation . .	*1st September 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 and all other powers enabling us in that behalf as follows:

Citation, interpretation and commencement

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 3) 1989 and shall come into operation on 1st September 1989.

(2) Nothing in rules 2 or 3 shall affect any proceedings begun before the coming into operation of these rules.

(3) In these rules "the principal rules" means the Rules of the Supreme Court (Northern Ireland 1980(**b**) and an Order or Form referred to by number means the Order or Form so numbered in those Rules.

Amendment of the principal rules

2.—(1) Order 1 rule 12 shall be amended as follows—

(*a*) sub-paragraph (ii) of paragraph (*b*) shall be omitted;

(*b*) in paragraph (*c*), for the words "with respect to a person's matrimonial status", there shall be substituted the words "under Part V of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989".

(2) Order 74 shall be amended as follows—

(*a*) in the heading the words "DECLARATION AS TO MATRIMONIAL STATUS" shall be omitted;

(*b*) Part III shall be revoked.

(**a**) 1978 c.23

(**b**) S.R. 1980 No. 346; to which there are no relevant amendments.

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

3.—(1) For Order 98 there shall be substituted the new Order set out in Schedule 1, and for the title of that Order in the Arrangement of Orders there shall be substituted "The Matrimonial and Family Proceedings (Northern Ireland) Order 1989".

(2) The new forms set out in Schedule 2 shall be substituted for Form 48.

Family Law (Miscellaneous Provisions) (Northern Ireland) 1984(**b**)

4. The principal rules shall be amended by inserting the new Order 115 set out in Schedule 3.

Dated 29th 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 21st July 1989.

(**a**) S.I. 1989/667 (N.I. 4)
(**b**) S.I. 1984/1984 (N.I. 14)

SCHEDULE 1 Rule 3(1)

New Order to be substituted in the Rules of the Supreme Court

ORDER 98

THE MATRIMONIAL AND FAMILY PROCEEDINGS (NORTHERN IRELAND) ORDER 1989

PART I

PRELIMINARY

Definitions

1. In this Order—

"the Order of 1989" means the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;

"the Judge" means the Judge for the time being to whom the business of the Family Division is assigned under section 17 of the Act and any judge of the High Court exercising jurisdiction in matrimonial causes and matters.

PART II

DECLARATIONS AS TO LEGITIMACY OR LEGITIMATION

Heading of Petition

2. An application under Article 32 of the Order of 1989 for a declaration of legitimacy or legitimation shall be commenced by petition which shall be headed:—

"In the High Court of Justice in Northern Ireland

Family Division

Probate and Matrimonial Office"

and shall be addressed to Her Majesty's High Court of Justice in Northern Ireland.

Contents of Petition

3.—(1) A petition by which proceedings are begun under Article 32 of the Order of 1989 shall state —

(*a*) the name of the petitioner, and if the petitioner is known by a name other than that which appears in the certificate of his birth that other name shall be stated in the petition and in any decree made thereon;

(*b*) the date and place of birth of the petitioner;

(*c*) if it is known, the name of the petitioner's father and the maiden name of the petitioner's mother and, if it is different, her current name, and the residential address of each of them at the time of the presentation of the petition;

(*d*) the grounds on which the petitioner relies and all other material facts alleged by him to justify the making of the declaration; and

(*e*) either that the petitioner is domiciled in Northern Ireland on the date of the presentation of the petition or that he has been habitually resident in Northern Ireland throughout the period of one year ending with that date.

(2) Where the jurisdiction of the court to entertain the petition is based on the petitioner's habitual residence, the petition shall include a statement of the addresses of the places of residence of the petitioner and the length of residence at each place during the period of one year ending with the date of presentation of the petition.

(3) Unless otherwise directed there shall be annexed to the petition a copy of the petitioner's birth certificate.

(4) 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

Heading of Petition

4. An application under Article 33 of the Order of 1989 for a declaration as to an adoption effected overseas shall be commenced by petition which shall be headed:—

"In the High Court of Justice in Northern Ireland

Family Division

Office of Care and Protection"

and shall be addressed to Her Majesty's Court of Justice in Northern Ireland.

Contents of Petition

5.—(1) A petition by which proceedings are begun under Article 33 of the Order of 1989 shall state—

(*a*) the name of the petitioner;

(*b*) the date and place of birth of the petitioner;

(*c*) the names of those persons who are to be respondents pursuant to paragraph (5) and the residential address of each of them at the date of the presentation of the petition;

(*d*) the date and place of the adoption order and the court or other tribunal or authority which made it;

(*e*) all other material facts alleged by the petitioner to justify the making of the declaration and the grounds on which the application is made; and

(*f*) either that the petitioner is domiciled in Northern Ireland on the date of the presentation of the petition or that he has been habitually resident in Northern Ireland throughout the period of one year ending with that date.

(2) Where the jurisdiction of the court to entertain the petition is based on the petitioner's habitual residence, the petition shall include a statement of the addresses of the places of residence of the petitioner and the length of residence at each place during the period of one year ending with the date of presentation of the petition.

(3) There shall be annexed to the petition a copy of the petitioner's birth certificate (if it is available, this certificate should be the one made after the adoption referred to in the petition) and, unless otherwise directed, 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.

(4) Where a document produced by virtue of paragraph (3) is not in English it shall, unless otherwise directed, 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**); or

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

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

PART IV

GENERAL PROVISIONS AS TO PROCEEDINGS UNDER PART II AND III

Interpretation

6. In this Part "Master" means—

(*a*) where the proceedings are brought under Article 32 (Declarations as to legitimacy or legitimation) of the Order of 1989, the Master (Probate and Matrimonial);

(*b*) where the proceedings are brought under Article 33 (Declarations as to adoptions effected overseas) of the Order of 1989, the Master (Care and Protection),

and "the Office" means the Probate and Matrimonial Office or the Office of Care and Protection accordingly.

Affidavit in support of Petition

7.—(1) The petition shall be supported by an affidavit by the petitioner verifying the petition and giving particulars of every person whose interest may be affected by the proceedings and his relationship to the petitioner:

Provided that if the petitioner is under the age of 18 the affidavit shall, unless otherwise directed, be made by his next friend.

(2) An affidavit for the purpose of paragraph (1) may contain statements of information and belief with the sources and grounds thereof.

Notice of the Petition to be given to the Attorney General

8.—(1) A copy of the petition and every document accompanying it shall be given by the petitioner to the Crown Solicitor on behalf of the Attorney General at least one month before the petition is filed and it shall not be necessary thereafter to serve these documents upon him.

(2) On filing the petition notice of filing shall be given by the petitioner to the Crown Solicitor on behalf of the Attorney General who may enter an appearance to the petition within 14 days from such notice.

(3) The Attorney General, in deciding whether it is necessary or expedient to intervene in the proceedings, may have a search made for, and may inspect and bespeak a copy of, any document filed or lodged in the court offices which relates to any other matrimonial proceedings referred to in the proceedings.

Service of Petition

9. The petitioner shall serve personally or by post every respondent, other than the Attorney General, with a copy of the petition indorsed with a notice to appear in accordance with Form 48 in Appendix A.

Appearance by Respondent

10. A respondent may enter an appearance within the time limited by the notice indorsed on the petition.

Answer by Respondent

11.—(1) A respondent who has entered an appearance may within 14 days thereafter file an answer to the petition.

(2) The respondent shall within 4 days of filing an answer deliver a copy of it to the petition and to the Crown Solicitor and any other party to the proceedings.