1980 No. 227

COUNTY COURTS

County Court (Adoption) Rules (Northern Ireland) 1980

Made . . . . . *30th June 1980*

Coming into operation . . . *4th August 1980*

ARRANGEMENT OF RULES

PART I

CITATION, COMMENCEMENT, ETC.

Rule

1 Citation
2 Commencement
3 Revocations
4 Interpretation

PART II

COMMENCEMENT OF PROCEEDINGS

5 Notice to Health and Social Services Board under section 3(1)(*b*) of Act
6 Application to be by petition
7 Sittings at which petitions to be heard
8 Issue of petition
9 Verification of petition and documents to be exhibited thereto
10 Service of petition or notice of presentation
11 Notice of objection to the making of an adoption order
12 Appointment of guardian ad litem
13 Functions of guardian ad litem

PART III

HEARING OF PETITION

14 Objections
15 Procedure on the hearing
16 Privacy of proceedings
17 Provisional adoption orders
18 Interim orders

PART IV

GENERAL

19 Where previous application made for adoption of same infant
20 Cases more fit to be dealt with by the High Court
21 Attestation of consent when executed outside United Kingdom
22 Keeping of documents and information
23 Birth certificates
24 Form and transmission of orders
25 Copies of adoption orders not to be supplied except in certain cases

Rule
26 Notice of decision of court to be given
27 Notice to court by which an affiliation order has been made
28 Application for amendment or revocation of adoption orders, supply of copies, etc.
29 Service and filing of documents
30 Enlargement or abridgement of time in special circumstances
31 Application of equity practice and procedure

SCHEDULE

FORMS

1 Notice to area board under section 3(1)(*b*) of the Adoption Act (Northern Ireland) 1967 of intention to apply for an Adoption Order or Provisional Adoption Order
2 Petition for Adoption Order (other than a Provisional Adoption Order)
3 Petition for a Provisional Adoption Order
4 Consent of Parent(s) or Guardian(s) to Adoption Order or Provisional Adoption Order
5 Statutory Declaration as to Consent of Spouse where Spouses not Joint Petitioners for Adoption Order or Provisional Adoption Order
6 Medical Certificates as to health of Petitioner
7 Notice of presentation of Petition for an Adoption Order or Provisional Adoption Order
8 Interim Order giving custody of infant to Applicant for Adoption Order or Provisional Adoption Order by way of probationary period
9 Application for Final Determination of Petition for Adoption Order or Provisional Adoption Order
10 Application for Discharge of Interim Order granting custody of infant for probationary period
11 Application by guardian ad litem under section 8(6) of the Adoption Act (Northern Ireland) 1967 for Final Determination of Petition for Adoption Order or Provisional Adoption Order
12 Order discharging Interim Order granting custody of infant for probationary period
13 Adoption Order
14 Provisional Adoption Order

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, section 45(1)(*b*) of the Adoption Act (Northern Ireland) 1967(**b**) and all other powers enabling us in that behalf, hereby make the following Rules:—

PART I

CITATION, COMMENCEMENT, ETC.

Citation

1. These Rules may be cited as the County Court (Adoption) Rules (Northern Ireland) 1980.

(**a**) S.I. 1980/397 (N.I. 3)
(**b**) 1967 c.35 (N.I.)

Commencement

2. These Rules shall come into operation on 4th August 1980.

Revocations

3. The following Rules are hereby revoked:—

the County Court (Adoption) Rules (Northern Ireland) 1969(**c**);

the County Court (Adoption) (Amendment) Rules (Northern Ireland) 1970(**d**);

the County Court (Adoption) (Amendment) Rules (Northern Ireland) 1974(**e**); and

the County Court (Adoption) (Amendment) Rules (Northern Ireland) 1979(**f**).

Interpretation

4. In these Rules—

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

"adoption order" includes a provisional adoption order within the meaning of section 38 of the Act;

"area board" means the Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972 for the area in which the petitioner is, or was at the relevant time, resident;

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

"Registrar General" means the Registrar General for Northern Ireland;

reference to a Form by number is a reference to the Form as numbered in the Schedule.

PART II

COMMENCEMENT OF PROCEEDINGS

Notice to Health and Social Services Board under section 3(1)(b) of Act

5. Where service of notice to an area board of intention to apply for an adoption order is required under section 3(1)(*b*) of the Act such notice shall be in Form 1 and an affidavit of such service in accordance with Rule 29 shall be lodged with the chief clerk together with the copy of any such notice exhibited to the petition in accordance with Rule 9(2).

Application to be by petition

6.—(1) Subject to paragraph (2), an application for an adoption order shall be made by petition in Form 2.

(2) An application for a provisional adoption order under section 38 of the Act shall be made by petition in Form 3.

Sittings at which petitions to be heard

7. Every petition shall be listed for hearing at and heard at the sitting of the court for equity matters or on such other day or days as the Judge may appoint.

Issue of petition

8. The petition shall be submitted, in accordance with Rule 29, to the chief clerk for issuing not less than one month before the day appointed for the hearing together with copies for service in accordance with Rule 10(1) and a copy for the use of the

(c) S.R. & O. (N.I.) 1969 No. 279 (p. 1232)
(d) S.R. & O. (N.I.) 1970 No. 339 (p. 1476)
(e) S.R. 1974 No. 111 (I, p. 368)
(f) S.R. 1979 No. 117 (I, p. 611)

court; and he shall issue the petition by assigning a serial number thereto, and endorsing on the original and copies thereof a notice of the date of hearing and an interim appointment of the appropriate area board as guardian ad litem and shall return the copies for service.

Verification of petition and documents to be exhibited thereto

9.—(1) Every petition and every document exhibited thereto under paragraph (2) shall be verified by affidavit in the form appended to Forms 2 and 3.

(2) Every document proper for proving the statements in the petition shall be exhibited thereto and in particular—

(*a*) where notice under section 3(1)(*b*) of the Act is required to be served on the area board, a copy of the notice served;

(*b*) except where the petitioner desires the court under section 5(1) of the Act to dispense with the consent of a parent or guardian of the infant, a document attested in accordance with section 6(3) of the Act signifying the consent of every parent or guardian of the infant in Form 4;

(*c*) except where the petitioner desires the court under section 5(3) of the Act to dispense with the consent of his or her spouse or except where the petition is made jointly by two spouses, a statutory declaration in Form 5 signifying the consent of the spouse of the petitioner;

(*d*) where the petition is a joint petition by spouses, their marriage certificate or other evidence of marriage;

(*e*) where the birth of the infant has been registered or where the infant has been previously adopted, the birth certificate or, as the case may be, a certified copy of the entry in the Adopted Children Register, referred to in the Form of consent by the parent or guardian;

(*f*) except where the petitioner is the mother or father of the infant or the infant has reached the upper limit of compulsory school age, the certificate of a fully-registered medical practitioner as to the health of the petitioner or petitioners which may be in Form 6.

Service of petition or notice of presentation

10.—(1) The petitioner shall, not less than twenty-one days before the day appointed for the hearing of the petition, serve a copy of the petition on the guardian ad litem and, unless he desires his identity to be kept confidential, upon—

(*a*) the parents (other than a petitioning parent) or guardian (if known) of the infant;

(*b*) any person liable by virtue of any order or agreement to contribute to the support of the infant;

(*c*) any person or body having the rights and powers of a parent of the infant under section 104 of or paragraph 14(1) of Schedule 5 to the Children and Young Persons Act (Northern Ireland) 1968(**g**);

(*d*) the area board to whom the applicant has given notice under section 3(1) of the Act, where such area board is not the guardian ad litem;

(*e*) any adoption society or, without prejudice to the foregoing, any local authority who has taken part in the arrangements for the adoption of the infant; and

(*f*) any other person whom the court may direct;

(**g**) 1968 c. 34.(N.I.)

and the court may, in its discretion, dispense with service of the copy of the petition or notice referred to in paragraph (2) on any of the persons mentioned in sub-paragraphs (*a*) to (*e*).

(2) If the petitioner desires, as stated in the petition, that his identity be kept confidential he shall, in lieu of a copy of the petition, serve upon the persons mentioned in paragraph (1)(*a*) to (*f*) a copy of a notice in Form 7.

(3) If the petitioner has no solicitor acting for him, the notice in Form 7 of the presentation of the petition shall be signed by the chief clerk.

Notice of objection to the making of an adoption order

11. Anyone wishing to object to the grant of an adoption order shall within ten days of the date of service on him of a copy of the petition or, as the case may be, notice of the presentation of the petition, give the chief clerk written notice of his intention to object quoting the serial number of the petition.

Appointment of guardian ad litem

12.—(1) The chief clerk shall, after receipt of the petition, make an interim appointment of the appropriate area board as a guardian ad litem under section 11 of the Act, which appointment may be incorporated in the form of notice to be endorsed on the petition at the time of its issue.

(2) Such appointment may be confirmed by the judge or he may make another appointment under the said section 11.

(3) Rule 15 of Order 3 of the County Court Rules (Northern Ireland) 1976(**h**) shall not apply to the appointment of a guardian ad litem under this Rule.

Functions of guardian ad litem

13.—(1) The guardian ad litem shall, with a view to safeguarding the welfare of the infant, investigate as fully as possible all the circumstances relevant to the proposed adoption and shall, not later than seven days before the date appointed for the hearing of the petition, serve on the chief clerk a confidential report setting forth all the relevant circumstances including the following information:—

(*a*) particulars of the accommodation in the petitioner's home, its condition and of all the members of the petitioner's household;

(*b*) the means of the petitioner and whether they are such as to enable him to bring up the infant suitably;

(*c*) whether the petitioner suffers or has suffered from serious illness and whether there is any history of tuberculosis, epilepsy or mental illness in the petitioner's family;

(*d*) the occupation or status of the petitioner;

(*e*) where the petition is that of one only of two spouses, why the other spouse is not a joint petitioner;

(*f*) whether the petitioner understands the nature of an adoption order and, in particular, that the order if made will render him responsible for the maintenance and upbringing of the infant;

(*g*) what rights, if any, the infant has in any property;

(*h*) whether any insurance policy has been effected on the life of the infant, including any insurance relating to the infant under the enactments relating to friendly societies, collecting societies or industrial insurance companies to

(**h**) S.R. 1976 No. 374 (II,p. 1774)