1969. No. 288 [NC]

SUPREME COURT, NORTHERN IRELAND

PROCEDURE

The Rules of the Supreme Court (Northern Ireland) (No. 4) 1969.

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby exercise those powers and all other powers enabling us in that behalf as follows:—

1. Order LXXIII of the Rules of the Supreme Court (Northern Ireland) 1936(b) shall be amended as follows:—

(1) In the title for the words "Adoption of Children Act (N.I.) 1950" there shall be substituted the words "Adoption Act (Northern Ireland) 1967".

(2) For Part II there shall be substituted the Part II set out in Schedule I hereto.

(3) Immediately after rule 12 the following rule shall be inserted:

"**13.** Subject to this Order, the provisions of Order LIX shall apply to an appeal from an order made by a county court under the Guardianship of Infants Act 1886 as though the appeal were brought under the County Court Appeals Act (Northern Ireland) 1964, from a decree made in exercise of the jurisdiction conferred by Part III of the County Courts Act (Northern Ireland) 1959."

2. For Forms 31-37 in Appendix L of the Rules of the Supreme Court there shall be substituted the Forms 31-40 in Schedule II hereto.

3. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (No. 4) 1969 and shall come into force on 1st December 1969.

Dated 24th October 1969.

(Signed)

MacDermott.
L. E. Curran.
Robert Lowry.
E. W. Jones.
Maurice W. Gibson.

(a) 10 & 11 Eliz. 2, c. 30. (b) S.R. & O. 1936, No. 70 (II, p. 2559).

SCHEDULE I Rule 1

New Part II to be substituted for Part II of Order LXXIII of the Rules of the Supreme Court

PART II

ARRANGEMENT OF RULES IN THIS PART

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Interpretation

14.—(1) In this Part, unless the context otherwise requires—

"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;

"interim order" means an interim order made under section 8 of the Act;

"the Judge" means the Lord Chief Justice or any other Judge designated by him to hear and determine proceedings under the Act;

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

(2) In this Part a form referred to by number means the form so numbered in Appendix L or a form to the like effect.

Commencement of proceedings

15.—(1) All proceedings in the High Court under the Act shall be assigned to the Lord Chief Justice, or to a Judge designated by him, to be disposed of in Chambers.

(2) An application for an adoption order shall be made by originating summons in Form 31, the proposed adopter shall be the applicant and the infant shall be respondent.

(3) Notice to the welfare authority for the purposes of section 3(1)(*b*) of the Act may be given in Form 32.

When identity of applicant and infant confidential

16. Where any person intends to apply to the High Court for an adoption order and desires that his identity and that of the infant shall be kept confidential, he may, before taking out the originating summons, apply to the Chief Clerk, Royal Courts of Justice (Ulster), Chichester Street, Belfast, BT1 3JF, for a serial number to be assigned for the purposes of the proposed application and a number shall be assigned accordingly.

Appointment of guardian ad litem

17.—(1) Subject to paragraph (2), the welfare authority in whose area the applicant resides or an officer of that authority shall be the guardian ad litem of the infant for the purposes of the application and a copy of the summons shall be served on him.

(2) The Judge may, either of his own motion or on an application made by the applicant by summons, appoint any person who appears to him to be suitably qualified to be the guardian ad litem of the infant.

Entry of appearance

18. The guardian ad litem shall enter an appearance on behalf of the infant within ten days after service of the summons on him.

Previous proceedings

19. If it appears that the applicant has previously made an application for an adoption order in respect of the same infant to the High Court or to a county court and that Court, after having heard the case, dismissed the application on its merits, the guardian ad litem shall bring the matter to the attention of the Judge and the application shall not be proceeded with unless the Judge is satisfied that there has been a substantial change in the circumstances of the case since the refusal of the previous application.

Evidence in support of application

20.—(1) Evidence in support of an application for an adoption order shall be given by means of an affidavit to which there shall be exhibited a statement in Form 33 and any document referred to in the statement.

(2) The affidavit may be filed on the issue of the summons and shall be filed within 14 days after the issue of the summons and a copy of the affidavit and the documents exhibited to it shall thereupon be served on the guardian ad litem.

Document signifying consent

21.—(1) Any document signifying the consent of a person to the making of an adoption order for the purposes of section 6 of the Act shall be in Form 34, and, if executed before the date of the applicant's statement shall be exhibited to the affidavit referred to in rule 20(1).

(2) If the document is executed outside the United Kingdom, it shall be sufficiently attested by any 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 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.

(3) In this rule "regular armed forces of the Crown" means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955, the regular air force as defined by section 223 of the Air Force Act 1955, the Women's Royal Naval Service, Queen Alexandra's Royal Naval Nursing Service and Voluntary Aid Detachment serving with the Royal Navy.

Medical certificate from applicant

22. Except where the applicant or one of the applicants is the mother or father of the infant or the infant is over the upper limit of the compulsory school age, there shall be exhibited to the affidavit referred to in rule 20(1) a certificate of a fully registered medical practitioner as to the applicant's health, and if the applicant so desires, Form 35 may be used for the purposes of such a certificate.

Report on health of infant

23.—(1) Any report on the health of the infant which is to be used for the purposes of an application must be attached to the report made to the Judge by the guardian ad litem under rule 26(2).

(2) The report may be in Form 36.

Application for provisional order

24.—(1) An applicant for a provisional adoption order must produce evidence of the law of adoption in the country in which he is domiciled.

(2) The Judge may accept as evidence of that law an affidavit sworn by a person who is conversant with it and who practises, or has practised as a barrister or advocate in that country or is a duly accredited representative of the Government of that country in the United Kingdom.

(3) Where the applicant intends to make use of such an affidavit he should file it with the affidavit referred to in rule 20(1).

Notice of application

25. The guardian ad litem shall, as soon as practicable after he has entered an appearance, serve a notice in Form 37 on any parent or guardian of the infant who has signified his consent to the making of an adoption order.

Duties of guardian ad litem

26.—(1) With a view to safeguarding the interests of the infant before the Court the guardian ad litem shall, immediately after entering an appearance, so far as may be reasonably practicable—

(*a*) investigate all the circumstances relevant to the proposed adoption including the matters alleged in the applicant's statement;

(*b*) investigate those matters mentioned in rule 27;

(*c*) carry out such other investigations as the Judge may direct.

(2) On completing his investigations the guardian ad litem shall make a confidential report in writing to the Judge and notify the applicant that he has done so.

(3) With a view to obtaining the direction of the Judge on any particular matter the guardian ad litem may at any time make such interim report to the Court as appears to him to be necessary.

Investigations by guardian ad litem

27.—(1) The guardian ad litem shall interview the applicant and shall ascertain—

(*a*) particulars of all members of the applicant's household and their relationship (if any) to the applicant;

(*b*) particulars of the accommodation in the applicant's home and the condition of the home;

(*c*) the means of the applicant;

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

(*e*) in the case of an application by one only of two spouses, why the other spouse does not join in the application;

(*f*) whether any person specified in the application as a person to whom reference may be made is a responsible person and whether he recommends the applicant with or without reservation;

(*g*) whether the applicant 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;

(*h*) why the applicant wishes to adopt the infant;

(*i*) such other information, including an assessment of the applicant's personality and, where appropriate, that of the infant, as has a bearing on the mutual suitability of the applicant and the infant and on the ability of the applicant to bring up the infant;

(*j*) the applicant's religious persuasion, if any.