Adoption of Children Act (Northern Ireland), 1950

County Court Rules (Northern Ireland), 1954

1954. No. 23

We, the undersigned members of the County Court Rules Committee, appointed by the Lord Chief Justice of Northern Ireland under sub-section (3) of section two of the County Courts (Salaries and Rules) Act (Northern Ireland), 1947, by virtue of the powers vested in us in this behalf, do hereby make the Rules hereinafter set forth as Rules to be in force in proceedings in the County Courts under the Adoption of Children Act (Northern Ireland), 1950, and do hereby certify the same under our hands and submit them to the Lord Chief Justice of Northern Ireland accordingly.

(Signed) *Bernard J. Fox.*
Isaac Copeland.
Samuel Cumming.
Charles Stewart.
Geo. H. Pollock.

The scale of Court Fees in the Second Schedule has been fixed with the consent of the Ministry of Finance for Northern Ireland.

IN WITNESS whereof the Official Seal of the Ministry has been affixed hereto this 12th day of February, 1954, in the presence of

(L.S.) *(Signed)* *D. C. B. Holden,*
Assistant Secretary.

I approve of these Rules which shall come into force on the 1st day of May, 1954.
Dated the 23rd day of February, 1954.

(Signed) *MacDermott,*
Lord Chief Justice of Northern Ireland.

ADOPTION OF CHILDREN ACT (NORTHERN IRELAND), 1950.
COUNTY COURT RULES DATED 23RD DAY OF FEBRUARY, 1954.

1. These rules may be cited as the Adoption of Children (Northern Ireland) County Court Rules, 1954, and the Adoption of Children (Northern Ireland) County Court Rules, 1950, shall be revoked as from the coming into force of these rules. The expression "the Act" shall mean the Adoption of Children Act (Northern Ireland), 1950.

2. An application for an interim order shall be made by petition to the court, and shall be intituled in the matter of the Act, and in the matter of the County Officers and Courts (Ireland) Act, 1877, and in the matter of the infant. The proposed adopter shall be the petitioner, and the welfare authority within whose area the petitioner resides, and such other persons or person as the court may direct, shall be made respondents.

The petition may be in form No. 1 in the First Schedule hereto, and shall state whether or not the petitioner desires that his identity shall be kept confidential.

3. Every such petition shall be listed for hearing at an Equity Sessions of the court, and shall be delivered to the Clerk of the Crown and Peace at his office at least one month before the date of hearing of such petition, and shall be filed by him in his office.

4.—(1) The petitioner shall cause a copy of the petition to be served upon the welfare authority within whose area he resides and, unless he desires that his identity shall be kept confidential, upon (*a*) the parents or guardian (if known) of the infant; (*b*) the person having the actual custody of the infant (if different from (*a*) and not the petitioner); (*c*) any person liable to contribute to the support of the infant; and (*d*) any other person whom the court may direct.

(2) If the petitioner desires that his identity shall be kept confidential he shall, in lieu of a copy of the petition, cause to be served upon the persons mentioned in (*a*), (*b*) and (*c*) of the preceding sub-rule a copy of a notice of the petition, and such notice may be in the form No. 2 in the First Schedule hereto. If such petitioner has no solicitor acting for him, the notice of the petition shall be signed by the Clerk of the Crown and Peace.

(3) Such copy of the petition, or of the notice of petition, as the case may be, shall be served not later than one month before the date of hearing of the petition, and if the parties do not attend, either in person or by their solicitors, such order may be made and proceedings taken as the court may consider just. The court may, in its discretion, dispense with service upon any of the parties, except the welfare authority, and may, in its discretion, order a copy of the petition to be served upon any other person, but in directing such service it shall have regard to paragraph 14 of the petition.

5. Service of the petition, or of the notice of petition, as the case may be, under the last preceding rule shall be effected by a civil bill officer of the court, and such service shall be either personal or by posting a copy of the petition, or of the notice thereof, by registered post addressed to the person to be served at his last known place of residence.

6. Every consent required under sub-section (3) of section two or under paragraph (*a*) of sub-section (3) of section twenty-three of the Act shall be in writing, and may be in the form No. 3 in the First Schedule hereto. If the consenting party is the mother of the infant and she is resident in Northern Ireland, the document shall not be admissible as evidence unless her signature is attested by a justice of the peace, and every consent, including that of the mother, if executed outside Northern Ireland shall be attested by a justice of the peace or by any person for the time being authorised by law in that place to administer an oath for any judicial or other legal purpose, or verified in such other manner as the court may direct.

7. The petition shall be verified by affidavit, which shall exhibit all certificates and documents proper for proving the statements in the petition.

8. Upon being served with a copy of a petition, the welfare authority shall investigate as fully as possible all the circumstances of the infant and of the petitioner, and, in particular, shall include in its investigations the following questions:—

(*a*) whether the statements in the petition are true;

(*b*) whether any person or body whatsoever has given or agreed to give or, whether directly or indirectly, has received or agreed to receive any payment or reward whatsoever in consideration of or in connection with the adoption of the infant;

(*c*) whether the means and status of the petitioner are such as to enable him to maintain and bring up the infant suitably, and what right to or interest in property the infant has;

(*d*) what assurance, if any, has been effected on the life of the infant;

(*e*) whether it is desirable for the welfare of the infant that the court in making the interim order, should impose any terms or conditions in the interests of the infant.

9. When the investigations referred to in the preceding rule have been completed, the welfare authority shall lodge with the Clerk of the Crown and Peace a report on the result of such investigations. Such report shall be lodged not later than ten days before the date of hearing of the petition.

10. If notice of objection to the making of an interim order shall be received by the Clerk of the Crown and Peace, he shall forthwith notify the Judge, the petitioner or his solicitor, and the welfare authority of such objections, and the Judge shall direct what steps are then to be taken. The Judge may direct that the objector shall appear before him in his Chambers on a date fixed by him, and shall also direct what other persons, if any, are to attend.

Upon hearing the objection, the Judge may make such order on foot thereof as he may deem just.

11. Evidence may be given orally or by affidavit, and all applications and proceedings to be heard by the court and to which these rules relate shall be heard by it in Chambers.

12. The court may refuse to make an interim order or an adoption order, or to grant an application for a licence, unless all parties, including the infant, attend before it, but it shall have power in its discretion to dispense with the attendance of any

party, including the infant, and it may direct that any of the parties shall attend separately and apart from the others, or that any party, including the infant, shall be interviewed privately.

Unless the court is satisfied that the petitioner does not desire that his identity be kept confidential, the proceedings shall be conducted with a view to securing that he is not seen by or made known to any person (other than the spouse of the petitioner) whose consent to the order is required.

If an interim order is granted, the court may impose such terms and conditions as it may think fit in the interests of the infant, and such interim order may be in the form No. 4 in the First Schedule hereto.

13. If, owing to special circumstances, any application appears to the court to be proper to be dealt with by the Supreme Court, it may, on that ground expressly, refuse to make an order.

14.—(1) If, owing to special circumstances, an application made under section twenty-three of the Act appears to be proper to be dealt with by the Lord Chief Justice, the court may thereupon direct that such application be transferred accordingly.

(2) Upon such direction being given, the Clerk of the Crown and Peace shall transmit the notice of application and all other documents in his possession relating thereto to the Lord Chief Justice, and the application shall thereafter be dealt with in accordance with the rules of the Supreme Court.

15. If it shall appear that the petitioner has made any previous application in respect of the same infant, whether for an interim order or for an adoption order, which has been refused, (or for the discharge of an interim order which has been granted) the court shall not make an interim order or an adoption order unless it shall be satisfied that there has been a substantial change in the circumstances.

16.—(1) Where an interim order has been granted in respect of any infant, the petitioner shall, before the expiration of the period specified in the order, or within such extended period as the court may, in special circumstances, allow, lodge with the Clerk of the Crown and Peace a notice of application for an adoption order in respect of the infant or for the discharge of the interim order, as the case may be.

(2) The petitioner shall serve a copy of such notice upon the welfare authority in whose area he is for the time being resident, and such copy shall be served not later than one month before the date of hearing of the application.

(3) The notice may be in the form No. 7 or form No. 5 in the First Schedule hereto, as the circumstances may require, and shall be lodged with the Clerk of the Crown and Peace not later than 10 days before the date upon which the application is to be heard.

17. Upon the hearing of the application referred to in the preceding rule, the court may deal with such application in accordance with the terms thereof or in any other manner which to it may appear just.

18. The Clerk of the Crown and Peace shall be the prescribed officer for the purpose of sub-section (8) of section four and sub-section (8) of section fourteen of the Act, and upon the making or amendment of an adoption order the Clerk of the Crown and Peace shall forward a sealed copy thereof to the Registrar-General for Northern Ireland in a registered postal envelope marked "Confidential". Such adoption order may be in the form No. 8 in the First Schedule hereto.

19. If an application for the discharge of an interim order is granted, such discharge may be in the form No. 6 in the First Schedule hereto.

20.—(1) An application under sub-section (3) of section twenty-three of the Act shall be heard at an Equity Sessions of the court.

(2) A notice of any such application may be in the form No. 9 in the First Schedule hereto, and a copy of such notice shall be sent by registered post to the welfare authority and to every person or body who is a parent or guardian of the infant in question, or who has the actual custody of the infant, or who is liable to contribute to the support of the infant. Such copy shall be posted not later than one month before the date of hearing of the application and a copy shall also, not later than one month before such date, be lodged with the Clerk of the Crown and Peace together with any necessary consent, which may be in the form No. 3 in the First Schedule hereto.

(3) Upon receipt of such copy, the Clerk of the Crown and Peace shall cause a note of the application to be entered in a separate book kept by him, which shall be known as "The Adoption of Children (Licences) Book", and such book may be in the form No. 10 in the First Schedule hereto.

(4) Upon being served with notice of such application, the welfare authority shall investigate as fully as possible all the circumstances of the infant, and, in particular, whether such transfer is likely to be for the welfare of the infant. When such investigations have been completed, the welfare authority shall lodge with the Clerk of the Crown and Peace a report on the result of such investigations, and such report shall be lodged not later than ten days before the date of hearing of the application.

(5) The order made on any such application as aforesaid may be in the form No. 11 in the First Schedule hereto.

21.—(1) An application by a guardian *ad litem* under sub-section (5) of section four of the Act may be in the form No. 12 in the First Schedule hereto, and shall be lodged with the Clerk of the Crown and Peace not later than three days before the date of hearing of the application.