

SCHEDULE 1

PART IVC

MISCELLANEOUS PROCEEDINGS UNDER THE ORDER OF 1987

Application for leave of the court etc

4C.1.—(1) An application under –

- (a) Article 20(2);
- (b) Article 28(1) or (2);
- (c) Article 29(1) or (2);
- (d) Article 30(1);
- (e) Article 30(2); or
- (f) Article 31(2),

shall be made in accordance with paragraph (2).

(2) An application pursuant to paragraph (1) shall be made –

- (a) if an application for an adoption order or an order under Articles 17, 18 or 20 is pending, by sending a notice of application in Form A20 to the Master; or
- (b) if no such application is pending, by sending a notice of application in Form A21 to the Master.

(3) Subject to paragraph (5), the Master shall serve a copy of the notice of application, together with a notice of the date of hearing –

- (a) where the proceedings specified in paragraph 2(a) were pending at the time of receipt of the application or where such proceedings were commenced subsequently, on the parties to those proceedings and on the guardian ad litem;
- (b) in any other case, on any person against whom an order is sought in the application and on the Board to whom the prospective adopter has given notice under Article 22; and
- (c) in any case, on such other person or body, not being the child, as the court thinks fit.

(4) Anyone who wishes to object to the application shall, within 14 days of the service of the application on him, send written notice of his objection to the Master.

(5) The Master shall serve a copy of the written notice of objection on each person served with a copy of the application.

(6) If in any application under this rule a serial number has been assigned to a person who has applied or who proposes to apply for an adoption order, or such a person applies to the Master in that behalf before filing the application and a serial number is assigned accordingly –

- (a) the Master shall ensure that the documents served under paragraph (3) or (5) do not disclose the identity of that person to any other party to the application under this rule who is not already aware of that person's identity, and
- (b) the proceedings on the application under this rule shall be conducted with a view to securing that he is not seen by or made known to any party who is not already aware of his identity except with his consent.

(7) Unless otherwise directed, any prospective adopter who is served with a copy of an application under this rule and who wishes to oppose the application shall file his application for an adoption

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order within 14 days or before or at the time of the hearing of the application under this rule, whichever is the earliest.

(8) The court may at any time give directions as to the appointment of a guardian ad litem of the child.

(9) Where an application under paragraph (1)(a), (b) or (e) is granted or an application under paragraph (1)(c) or (d) is refused, the judge may thereupon, if any application for an adoption order has been filed, treat the hearing of the application as the hearing of the application for an adoption order and refuse an adoption order accordingly.

(10) Where an application under this rule is determined the Master shall serve notice of the effect of the determination on all the parties.

Proposed foreign adoption proceedings

4C.2.—(1) An application under Article 57(1) shall be in Form A9 issued out of the Office.

(2) Subject to paragraph (3), rules 4A.14, 4A.15(2) to (5), 4A.16 to 4A.25 and this Part (except rule 4C.7(1)(e)) shall apply to an application for an order authorising a proposed foreign adoption as if such an order were an adoption order.

(3) An applicant for an order authorising a proposed foreign adoption shall provide expert evidence of the law of adoption in the country in which he is domiciled and an affidavit as to that law sworn by such a person as is mentioned in section 114(3) of the Judicature (Northern Ireland) Act 1978(1) (that is to say a person who is suitably qualified on the account of his knowledge or experience to give evidence as to that law) shall be admissible in evidence without notice.

Amendment and revocation of orders

4C.3.—(1) An application under Article 52 for the amendment of an adoption order or the revocation of a direction to the Registrar General, or under Article 55 for the revocation of an adoption order, may be made ex parte in the first instance, but the court may require notice of the application to be served on such persons as it thinks fit.

(2) Where the application is granted, the Master shall send to the Registrar General a notice specifying the amendments or informing him of the revocation and shall give sufficient particulars of the order to enable the Registrar General to identify the case.

Service of documents

4C.4 Subject to rule 4B.14, the person effecting service of any document under Part IVA, Part IVB or this Part of these rules shall make, sign and file a certificate showing the date, place and mode of service. If he has failed to effect service of any document, he shall make, sign and file a certificate of non-service showing the reason why service has not been effected.

Costs

4C.5 On the determination of proceedings to which Part IVA, Part IVB or this Part of these rules apply or on the making of an interim order, the judge may make such order as to the costs as he thinks just and, in particular, may order the applicant to pay –

- (a) the expenses incurred by the guardian ad litem,
- (b) the expenses incurred by any respondent in attending the hearing,

or such part of those expenses as the judge thinks proper.

(1) 1978 c. 23

Notice and copies of orders etc

4C.6.—(1) In proceedings to which Part IVA, Part IVB or this Part of these rules apply orders shall be made in the form indicated in this paragraph –

<i>Description of order</i>	<i>Form</i>
(a) (a) Order under Article 17	A22
(b) (b) Order under Article 18	A23
(c) (c) Order under Article 20	A24
(d) (d) Interim order	A25
(e) (e) Order under Article 40(3A)	A26
(f) (f) Adoption order	A27
(g) (g) Convention adoption order	A27 (with the word “Convention” inserted where appropriate)
(h) (h) Order authorising a proposed foreign adoption	A27 (with the words “order authorising a proposed foreign adoption” substituted for the words ‘adoption order’ wherever they appear)

(2) Within 7 days of the making of an order to which paragraph (1)(d), (f) or (g) applies, the Master shall send a copy of the order to the Registrar General.

(3) Where an order to which paragraph (1)(a), (b), (f) or (g) applies is made or refused or an order to which paragraph (1)(c) applies is made, the Master shall serve notice to that effect on every respondent.

(4) The Master shall serve notice of the making of an order to which paragraph (1)(a), (b), (c), (g) or (h) applies on any court in the United Kingdom which appears to him to have made any such order as is referred to in Article 12(3) (orders relating to parental responsibility for the child).

(5) A copy of any order may be supplied to the Registrar General at his request.

(6) A copy of any order may be supplied to the applicant.

(7) A copy of any order may be supplied to any other person with the leave of the court.

(8) Within 7 days of the making of an order to annul a Convention adoption order or a Convention adoption, the proper officer shall send a copy of the order to the applicant, every respondent, the relevant Central Authority and the Registrar General.

Custody, inspection and disclosure of documents and information

4C.7.—(1) All documents relating to proceedings under the Order of 1987 (or under any previous enactments relating to adoption) shall, while they are in the custody of the court, be kept in a place of special security.

(2) A party who is an individual and is referred to in a confidential report supplied to the court by an adoption agency, a Board or a guardian ad litem may inspect, for the purposes of the hearing, that part of any such report which refers to him, subject to any direction given by the court that –

(a) no part of one or any of the reports shall be revealed to that party, or

(b) the part of one or any of the reports referring to that party shall be revealed only to that party’s legal advisers, or

(c) the whole or any other part or any of the reports shall be revealed to that party.

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(3) Any person who obtains any information in the course of, or relating to, any proceedings mentioned in paragraph (1) shall treat that information as confidential and shall only disclose it if –

- (a) the disclosure is necessary for the proper exercise of his duties, or
- (b) the information is requested –
 - (i) by a court or public authority (whether in Northern Ireland or not) having power to determine adoptions and related matters, for the purpose of the discharge of its duties in that behalf, or
 - (ii) by the Registrar General, or a person authorised in writing by him, where the information requested relates only to the identity of any adoption agency which made the arrangements for placing the child for adoption in the home of the applicants, and of any Board which was notified of the applicant’s intention to apply for an adoption order in respect of the child, or
 - (iii) by a person who is authorised in writing by the Department to obtain the information for the purposes of research.

(4) Save as required or authorised by a provision of any enactment or of these Rules or with the leave of the court, no document or order held by or lodged with the court in proceedings under the Order of 1987 (or under any previous enactment relating to adoption) shall be open to inspection by any person, and no copy of any such document or order, or of an extract from any such document or order, shall be taken by or issued to any person.

Transfer to county court

4C.8 Where the Judge presiding in the High Court is of the opinion that, by reason of any special circumstances, an application under the Order of 1987 should be dealt with in the county court, he may by order transfer the matter to a county court and any matter so transferred shall be heard and determined in accordance with these rules as if it has been commenced in that court.