

SCHEDULE

Paragraph 2(4)(b)

Form 97.3

Rule 97.3(1)

Form of petition for parental order under section 54 of the Human Fertilisation and Embryology Act 2008

UNTO THE RIGHT HONOURABLE THE LORDS OF COUNCIL AND SESSION

PETITION

of

[A.B.] (*designation and address*)*

and

[C.D.] (*designation and address*)*

[*or serial number where one has been assigned]

Petitioners

for

a parental order under section 54 of the Human Fertilisation and Embryology Act 2008

in respect of

[E.F.] (*name as in the birth certificate*)

HUMBLY SHEWETH:—

1. That the petitioners are—
 - i. husband and wife*;
 - ii. civil partners of each other*; or
 - iii. two persons who are living as partners in an enduring family relationship and are not within prohibited degrees of relationship to each other*

(*delete as appropriate)

domiciled in the [United Kingdom] [Channel Islands] or [Isle of Man] and reside at (*state full address*).

2. That the petitioners are respectively and years of age.
3. That (*state name of child, the subject of the petition*) is [male] or [female] and is [months] or [years] old having been born on at .

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

4. That [a court has not previously refused the petitioners' application for a parental order in respect of the child] *or* [a court has previously refused the petitioners' application for a parental order in respect of the child but the court directed that section 33(1) of the Adoption and Children (Scotland) Act 2007 as modified, should not apply] *or* [a court has previously refused the petitioners' application for a parental order in respect of the child but the petitioners aver that it is proper for the court to hear the application because (*give full details*)].
5. That the child is not and never has been married or a civil partner.
6. That the child's home is with the petitioners.
7. That the child was carried by a woman other than the female petitioner as the result of [the placing in her of an embryo] *or* [the placing in her of sperm and eggs] *or* [her artificial insemination].
8. That the gametes of (*state which petitioner or if both state both petitioners*) were used to bring about the creation of the embryo of the child.
9. That the child is not the subject of any other pending or completed court proceedings (*if the child is so subject give full details*)—
- [10. That (*state full name and address of the other parent of the child*), who is [the father of the child by virtue of sections 35 or 36 of the Human Fertilisation and Embryology Act 2008] *or* [the other parent of the child by virtue of sections 42 or 43 of the Human Fertilisation and Embryology Act 2008] *or* [the other parent of the child by virtue of (*specify*)], where he or she is not one of the petitioners has freely and with full understanding of what is involved, agreed unconditionally to the making of the order sought.]
- [[11.] That (*state full name and address of the woman who carried the child*), is the woman who carried the child and has freely and with full understanding of what is involved, agreed unconditionally to the making of the order sought.]
- [12.] That no money or benefit, other than for expenses reasonably incurred, has been given or received by the petitioners for or in consideration of—
 - (a) the making of the order sought,
 - (b) any agreement required for the making of the order sought,
 - (c) the handing over of the child to the petitioners, or
 - (d) the making of any arrangements with a view to the making of the order,

[other than (*state any money or other benefit given or received by authority of the court and specify such authority*)].
- [[13.] That [the father of the child by virtue of sections 35 or 36 of the Human Fertilisation and Embryology Act 2008] *or* [the other parent of the child by virtue of sections 42 or 43 of the Human Fertilisation and Embryology Act 2008] *or* [the other parent of the child by virtue of (*specify*)], [and] [or] [the woman who carried the child] [cannot be found (*state the efforts which have been made to find the person(s) concerned*)] *or* [is [*or are*] incapable of giving agreement by reason of (*state reasons*)].]

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

MAY IT THEREFORE please your Lordships to dispense with intimation and to order notice of the petition to be served on such person or persons as the court thinks fit; to appoint a reporting officer and curator *ad litem*, to the child and direct them to report: [to dispense with the agreement of the [other parent of the child] *and*] *or* [the woman who carried the child] [who cannot be found] *or* [who is *or are*] incapable of giving agreement;] on resuming consideration of this petition and the reports by the reporting officer and the curator *ad litem*, to make a parental order in their favour under section 54 of the Human Fertilisation and Embryology Act 2008 in respect of the child; to direct the Registrar General for Scotland to make an entry regarding the parental order in the Parental Order Register in the form prescribed by him giving *[insert forename(s)]* as the forename(s) and *[insert surname]* as the surname of the child; and upon proof to the satisfaction of the court in the course of the proceedings to follow hereon, to find that the child was born on the *[insert date]* day of *[insert month]* in the year *[insert year]* and is identical with the child to whom an entry numbered *[insert entry number]* and made on the *[insert date]* day of *[insert month]* in the year *[insert year]*, in the Register of Births for the registration district of *[insert district]* relates; and to direct the Registrar General for Scotland to cause such birth entry to be marked with the words “Parental Order” and to include the above mentioned date of birth in the entry recording the parental order in the manner indicated in that form; to pronounce such other or further orders or directions upon such matters, including the expenses of this petition, as the court thinks fit.

ACCORDING TO JUSTICE ETC.

(Signed)

Solicitor *[or Agent]* for petitioners
(Address)

[or (Signed)
Counsel or other person having a right of
audience]

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 97.10

Rule 97.10(1)

Form of agreement to a parental order under section 54(6) of the Human Fertilisation and Embryology Act 2008

IN THE COURT OF SESSION

in the PETITION OF

[A.B.] (*designation and address*)*

and

[C.D.] (*designation and address*)*

[*or serial number where one has been assigned]

for

a parental order under section 54 of the Human Fertilisation and Embryology Act 2008

in respect of

[E.F.] (*full name as given in the birth certificate*)

I, (*insert name and address*), confirm that I am [the woman who carried the child] *or* [the father of the child by virtue of sections 35 or 36 of the Human Fertilisation and Embryology Act 2008] *or* [the other parent of the child by virtue of sections 42 or 43 of the Human Fertilisation and Embryology Act 2008] *or* [the other parent of the child by virtue of (*specify*)], state—

- (1) That I fully understand that the effect of the making of a parental order in respect of the child will be to extinguish all the parental responsibilities and parental rights which I have at present in respect of the child.
- (2) That I understand that the court cannot make a parental order in relation to the child without my agreement [and the agreement of [the woman who carried the child] *or* [the father of the child by virtue of sections 35 or 36 of the Human Fertilisation and Embryology Act 2008] *or* [the other parent of the child by virtue of sections 42 or 43 of the Human Fertilisation and Embryology Act 2008] *or* [the other parent of the child by virtue of (*specify*)], where he or she is not one of the petitioners] unless the court dispenses with agreement on the ground that the person concerned cannot be found or is incapable of giving agreement.
- (3) That I understand that when the hearing of the petition to determine the application for a parental order in relation to the child is heard, this document may be used as evidence of my agreement to the making of the order unless I inform the court that I no longer agree.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (4) That I freely, and with full understanding of what is involved, agree unconditionally to the making of a parental order in relation to the child.
- (5) That I have not received or given any money or benefit, other than for expenses reasonably incurred, for or in consideration of—

- (a) the making of the parental order,
- (b) the execution of this agreement,
- (c) the handing over of the child to the petitioners, or
- (d) the making of any arrangements with a view to the making of a parental order,

[other than (state any money or other benefit given or received by authority of the court and specify such authority)].

I have signed this agreement at (*place of signing*) on the day of Two thousand
and

(Signed by the [*woman who carried the child*]
[*the father*] or [*other parent of the child*])

This agreement was signed in the presence of:—

(Signed)

(Inset full name and address of witness)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Form 97.12

Rule 97.12(3)

Form of intimation of hearing of application for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008

IN THE COURT OF SESSION

in the

PETITION

of

[A.B.] (*designation and address*)*

and

[C.D.] (*designation and address*)*

[*or serial number where one has been assigned]

for

a parental order under section 54 of the Human Fertilisation and Embryology Act 2008

in respect of

[E.F.] (*name as given in the birth certificate*)

Date: (*date of posting or other method of intimation*)

To: (*name and address*)

TAKE NOTICE

1. That the hearing on this petition to determine the application for a parental order will come before the Lord Ordinary in the Court of Session, Parliament House, Edinburgh on the [*insert date*], at [*insert time*] and that you may then appear and be heard personally or by counsel or other person having a right of audience on the question whether a parental order should be made.
2. That you are [*not*] obliged to attend the hearing [*unless you wish to do so*].
3. That while the petition is pending you must not, except with the leave of the court, remove the child from the care of the petitioners.]
4. That the court has been requested to dispense with your agreement to the making of an order on the ground[s] that (*specify ground(s)*.)]

(Signed)

Messenger-at-Arms

[or Solicitor [or Agent] for petitioners] or [Deputy Principal Clerk*]

(Address)

*where serial number assigned