
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 321

**SUPREME COURT, NORTHERN
IRELANDPROCEDURE**

**The Rules of the Supreme Court (Northern
Ireland) (Amendment No. 4) 1996**

Made - - - - 25th July 1996

To be laid before Parliament

Coming into operation 4th November 1996

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978⁽¹⁾ to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment No. 4) 1996 and shall come into operation on 4th November 1996.

(2) In these Rules any reference to an Order by number or an Appendix by letter means the Order so numbered and the Appendix so lettered in the Rules of the Supreme Court (Northern Ireland) 1980⁽²⁾.

Disability

2. Order 80 shall be amended by the addition at the end of the following new rule—

“Appointment of guardian of child’s estate or fortune

14.—(1) In any of the circumstances mentioned in paragraph (2)(a) to (d) the court may appoint the Official Solicitor or some other suitable person to be a guardian of the fortune or estate of a child provided that

- (a) the appointment is to subsist only until the child reaches the age of eighteen; and
- (b) the consent of the persons with parental responsibility for the child (within the meaning of Article 6 of the Children (Northern Ireland) Order 1995⁽³⁾)

(1) 1978 c. 23

(2) S.R. 1980 No. 346 to which relevant amendments were made by S.R. 1989 No. 287

(3) S.I.1995/755 (N.I. 2)

- (i) has been signified to the court; or
 - (ii) in the opinion of the court cannot be obtained or may be dispensed with.
- (2) The circumstances referred to in paragraph (1) above are:
- (a) where money is paid into court on behalf of the child in accordance with directions given under rule 10 (control of money recovered by person under disability);
 - (b) where a court or tribunal outside Northern Ireland notifies the court that it has ordered or intends to order that money be paid to the child;
 - (c) where the child is absolutely entitled to the proceeds of a pension fund;
 - (d) where such an appointment seems desirable to the court.”

Declaration as to Parentage, legitimacy or legitimation

3. Order 98 shall be amended as follows—

- (1) for the heading in Part II there shall be substituted the following heading “DECLARATIONS AS TO PARENTAGE, LEGITIMACY OR LEGITIMATION”;
- (2) in rule 2 the words “for a declaration of legitimacy or legitimation” are revoked;
- (3) for rule 3 there shall be substituted the following new rules—

“Application under Article 32(1)(a) for declaration of parentage

3.—(1) Unless otherwise directed, a petition by which proceedings are begun under Article 32(1)(a) of the Order of 1989 shall state—

- (a) the name (including forenames and surname) of the petitioner, and if the petitioner is known by a name other than that which appears in the certificate of his birth, that other name shall be stated in the petition and in any decree made thereon;
- (b) the sex of the petitioner;
- (c) the date and place of birth of the petitioner;
- (d) if it is known, the name (including forenames and surname) of the father of the petitioner, his place and date of birth, residential address and occupation;
- (e) if they are known, the place and date of birth, the residential address and occupation of the mother of the petitioner and her name (including forenames and surname) at the following times—
 - (i) at the date of her birth;
 - (ii) if it is different, at the date of her first marriage;
 - (iii) if it is different, at the date of birth of the petitioner;
 - (iv) if it is different, at the date of her most recent marriage;
 - (v) if it is different, at the time of the presentation of the petition;
- (f) the grounds on which the petitioner relies and all other material facts alleged by him to justify the making of the declaration;
- (g) whether there are or have been any other proceedings in any court, tribunal or authority in Northern Ireland or elsewhere relating to the parentage of the petitioner, and, if so—
 - (i) particulars of the proceedings, including the court, tribunal or authority before which they were begun, and their nature, outcome or present state,
 - (ii) the date they were begun,

- (iii) the names of the parties and
 - (iv) the date of expected date of any trial in the proceedings;
 - (h) either that the petitioner is domiciled in Northern Ireland on the date of the presentation of the petition or that he has been habitually resident in Northern Ireland throughout the period of one year ending with that date; and
 - (i) the nationality, citizenship or immigration status of the petitioner and any person named in the petition as his parent, and the effect which the granting of a declaration of parentage would have upon the petitioner's status as regards his nationality, citizenship or right to be in the United Kingdom.
- (2) Unless otherwise directed, there shall be annexed to the petition a copy of the petitioner's birth certificate.
- (3) The petitioner's parents shall both, if alive, be respondents to the application.
- (4) Within 21 days after a declaration of parentage has been made the Master shall send to the Registrar General a copy of the declaration in Form 48D in Appendix A and the petition.

Application under Article 32(1)(b) for a declaration of legitimacy or legitimation

3A.—(1) Unless otherwise directed, a petition by which proceedings are begun under Article 32(1)(b) of the Order of 1989 for a declaration of legitimacy or legitimation shall state

- (a) the name of the petitioner, and if the petitioner is known by a name other than that which appears in the certificate of his birth, that other name shall be stated in the petition and in any decree made thereon;
 - (b) the date and place of birth of the petitioner;
 - (c) if it is known, the name of the petitioner's father and the maiden name of the petitioner's mother and, if it is different, her current name, and the residential address of each of them at the time of the presentation of the petition;
 - (d) the grounds on which the petitioner relies and all other material facts alleged by him to justify the making of the declaration; and
 - (e) either that the petitioner is domiciled in Northern Ireland on the date of the presentation of the petition or that he has been habitually resident in Northern Ireland throughout the period of one year ending with that date.
- (2) Unless otherwise directed, there shall be annexed to the petitioner a copy of the petitioner's birth certificate.
- (3) The petitioner's father and mother, or the survivor of them, shall be respondents to the application."
- (4) In rule 18 for paragraph (1) there shall be substituted the following paragraph
- “(1) A declaration made in accordance with Article 32(1)(a) shall be in Form 48D in Appendix A and a declaration made in accordance with Article 32(1)(b) shall be in Form 48B in Appendix A.”

Revocation and Saving

- 4.—**(1) Subject to paragraph (2) Order 74 and rules 6 to 8 of Order 90 are hereby revoked.
- (2) Nothing in paragraph (1) shall affect any proceedings commenced before this Rule came into operation.

Forms

5. Appendix A shall be amended as follows—

(1) by substituting for the heading to Form 48 the following heading

“FORM OF NOTICE TO APPEAR IN PETITION FOR DECLARATION AS
TO [PARENTAGE] [LEGITIMACY OR LEGITIMATION] [ADOPTION EFFECTED
OVERSEAS]”;

(2) by inserting after Form 48C the new form set out in the Schedule to these rules.

*Brian Hutton
R. D. Carswell
J. M. Nicholson
Anthony Campbell
Patrick Coghlin*

Dated 18th July 1996.

I Concur

Dated 25th July 1996.

Mackay of Clashfern C.

SCHEDULE

Rule 5(2)

Form 48D

Declaration as to parentage under Article 32(1)(a) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989

(Order 98 rule 18(1))

In the High Court of Justice in Northern Ireland

Family Division

Probate and Matrimonial Office

Upon the petition of

(the petitioner) and upon hearing

(the respondent)

It is declared that (the parent of the petitioner) is (or was) the parent of the said

Signed

Dated

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Rules of the Supreme Court (Northern Ireland) 1980 in consequence of the Children (Northern Ireland) Order 1995 to:

- (a) add a new rule to Order 80 (Disability) providing for the appointment in certain circumstances of a guardian of a child's fortune or estate;
- (b) amend Order 98 (Matrimonial and Family Proceedings) (Northern Ireland) Order 1989 to prescribe the procedure for an application for a declaration of parentage;
- (c) revoke Order 74 (Alteration of Maintenance Agreements) and Order 90 rules 6 to 8 (Applications under Guardianship of Infants Act 1886).