

SCHEDULE 1

PART IVA

FREEING FOR ADOPTION AND ADOPTION ORDERS

Adoption Orders

Application for a serial number

4A.14. Any person proposing to apply to the court for an adoption order who wishes his identity to be kept confidential, may, before commencing proceedings, apply to the Master for a serial number to be assigned to him for the purpose of identifying him in the proposed proceedings and a number shall be assigned to him accordingly.

Commencement of proceedings

4A.15.—(1) An application for an adoption order shall be made in Form A9 issued out of the Office.

(2) The respondents shall be –

- (a) each parent or guardian (not being an applicant) of the child, unless the child is free for adoption;
- (b) any adoption agency having parental responsibility for the child by virtue of Articles 17, 18 or 21, or under sections 18 or 21 of the 1976 Act or sections 18 or 21 of the 1978 Act;
- (c) any adoption agency named in the application or in any form of agreement to the making of the adoption order as having taken part in the arrangements for the adoption of the child;
- (d) any Board to whom the applicant has given notice under Article 22 of his intention to apply for an adoption order;
- (e) any Board or voluntary organisation that has parental responsibility for, is looking after, or is caring for, the child;
- (f) any person (not being an applicant) liable by virtue of any order or agreement to contribute to the maintenance of the child;
- (g) where the applicant proposes to rely on Article 15(1)(b)(ii), the spouse of the applicant; and
- (h) the child.

(3) The court may at any time direct that any other person or body be made a respondent to the application.

(4) Notice to the Board for the purposes of Article 22(1) may be given in Form A10.

(5) On filing the application the applicant shall pay the appropriate fee and supply three copies of –

- (a) the application, together with any other documents required to be supplied under this Part, and
- (b) where the child was not placed for adoption with the applicant by an adoption agency, save where the applicant or one of the applicants is a parent of the child, reports by a medical practitioner made not more than three months earlier on the health of the child and of each applicant, covering the matters specified in Part II of Appendix 4.

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Statement of facts in dispensation cases

4A.16.—(1) Where the child is not free for adoption and the applicant intends to request the court to dispense with the agreement of a parent or guardian of the child on any of the grounds specified in Article 16(2), the request shall be included in the application and there shall be attached to the application three copies of a statement of facts on which the applicant intends to rely.

(2) Where a serial number has been assigned to the applicant under rule 4A.14 the statement of facts supplied under paragraph (1) shall be framed in such a way as not to disclose the identity of that person.

(3) Except where the request for dispensation is based on the ground that the parent or guardian cannot be found, the Master shall, as soon as practicable, inform the parent or guardian of the request to dispense with his agreement and shall send him a copy of the statement supplied under paragraph (1).

Appointment of guardian ad litem

4A.17.—(1) As soon as practicable after the application has been filed, the Master shall appoint a guardian ad litem of the child and shall send to him a copy of the application, together with any documents attached thereto.

(2) The guardian ad litem shall not be a member or employee of the applicant or any respondent body nor have been involved in the making of any arrangements for the adoption of the child.

(3) Where the child is free for adoption, the guardian ad litem shall, where practicable, be the same person who was appointed under rule 4A.5.

Duties of guardian ad litem

4A.18.—(1) With a view to safeguarding the interests of the child before the court the guardian ad litem shall –

- (a) ensure so far as is reasonably practicable that any agreement to the making of the adoption order is given freely and unconditionally and with full understanding of what is involved;
- (b) investigate all the circumstances relevant to any such agreement;
- (c) investigate so far as is reasonably practicable –
 - (i) the matters alleged in the application, any report supplied under rule 4A.15(5)(b) and, where appropriate, the statement of facts supplied under rule 4A.16;
 - (ii) any other matters which appear to him to be relevant to the making of an adoption order;
- (d) on completing his investigations make a report in writing to the court, drawing attention to any matters which, in his opinion, may be of assistance to the court in considering the application, and shall notify the applicant that he has done so;
- (e) advise whether, in his opinion, the child should be present at the hearing of the application; and
- (f) perform such other duties as appear to him to be necessary or as the court may direct.

(2) Paragraphs (3) to (6) of rule 4A.6 shall apply to a guardian ad litem appointed under this rule as they apply to a guardian ad litem appointed under that rule.

Agreement

4A.19.—(1) Save with the leave of the court, any document signifying the agreement of a person to the making of the adoption order shall be in Form A11 and shall, if executed in Northern Ireland, be witnessed by a Justice of the Peace.

(2) If the document is executed outside Northern Ireland it shall be witnessed by one of the persons specified in rule 4A.7(2), (3) or (4), according to the country in which it is executed.

(3) If the document is executed outside Northern Ireland before the commencement of the proceedings it shall be filed with the application.

Notice of hearing

4A.20.—(1) Within 14 days of being notified by the guardian ad litem that he has made his report to the court, the applicant shall apply to the Master to fix a date for the hearing of the application.

(2) On an application under paragraph (1) the Master shall fix a date and time for the hearing and shall take account of any directions given under paragraph (7).

(3) The Master shall inform the applicant and the guardian ad litem of the date and time fixed for hearing and the applicant shall, unless he desires his identity to be kept confidential, serve notice of the hearing on all the parties in Form A12.

(4) Where the applicant desires that his identity be kept confidential he shall, in lieu of serving a notice in Form A12, serve upon the parties a notice of presentation in Form A13.

(5) If the applicant has no solicitor acting for him the notice in Form A12 or Form A13 shall be signed by the Master.

(6) Anyone wishing to object to the making of an adoption order, shall within 14 days of the date of service on him, of the notice of hearing or as the case may be the notice of presentation give the Master written notice of his intention to object in Form A14 or Form A15 as the case may be, quoting the serial number of the application.

(7) If at any stage before the hearing of the application it appears to the court that directions for the hearing are required the court may give such directions as it considers necessary.

Objections

4A.21.—(1) Where the Master receives notice of objection under rule 4A.20(6) he shall notify the judge, the applicant (or his solicitor) and the guardian ad litem, and the judge shall give such directions as appear appropriate.

(2) The judge may direct that the person who served such notice of objection shall appear before him in his chambers on a date fixed by him and, upon hearing the nature or grounds for objection made by him or by his legal representative on his behalf, give such directions or make such orders as appear just.

Reports by adoption agency or Board

4A.22.—(1) Where the child was placed for adoption with the applicant by an adoption agency, that agency shall supply, within six weeks of receipt of the notice of hearing under rule 4A.20, three copies of a report in writing covering the matters specified in Part I of Appendix 4.

(2) Where the child was not placed for adoption with the applicant by an adoption agency, the Board to whom the notice under Article 22 of the Order was given shall supply, within six weeks of receipt of the notice of hearing or notice of presentation under rule 4A.20, three copies of a report in writing covering the matters specified in Part I of Appendix 4.

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(3) The court may request a further report under paragraph (1) or (2) and may indicate any particular matters it requires such a further report to cover.

(4) The Master shall send a copy of any report supplied under paragraph (1) or (2) to the guardian ad litem.

(5) No other person shall be supplied with a copy of any report supplied under paragraph (1) or (2) and any such report shall be confidential.

The hearing

4A.23.—(1) Subject to any directions given under rule 4A.21(2) on the hearing of the application, any person served with a notice of hearing under rule 4A.20(3) may attend and be heard on the question whether an adoption order should be made.

(2) Any member or employee of a Board, adoption agency or other body which is a party to the proceedings may address the court if he is duly authorised in that behalf.

(3) If a serial number has been assigned to the applicant under rule 4A.14 the proceedings shall be conducted with a view to securing that he is not seen or made known to any respondent who is not already aware of his identity, except with his consent.

(4) Subject to paragraphs (5) and (7), the judge shall not make an adoption order or an interim order except after the personal attendance before him of the applicant and the child.

(5) If there are special circumstances which, having regard to the report of the guardian ad litem, appear to the court to make the attendance of the child unnecessary, the court may direct that the child need not attend.

(6) If there are special circumstances which appear to the court to make the attendance of any other party desirable, the court may direct that that party shall attend.

(7) In the case of an application under Article 14, the judge may in special circumstances make an adoption order or an interim order after the personal attendance of one only of the applicants, if the application is verified by an affidavit sworn by the other applicant or, if he is outside the United Kingdom, by a declaration made by him and witnessed by any of the persons specified in rule 4A.7(4).

Proof of identity of child, etc

4A.24.—(1) Where the child who is the subject of the proceedings is identified in the application by reference to a birth certificate which is the same, or relates to the same entry in the Register of Births, as a birth certificate exhibited to a form of agreement, the child so identified shall be deemed, unless the contrary appears, to be the child to whom the form of agreement refers.

(2) Where the child has previously been adopted, paragraph (1) shall have effect as if for the references to a birth certificate and to the Register of Births, there were substituted respectively references to a certified copy of an entry in the Adopted Children Register and to that Register.

(3) Subject to paragraph (5), where the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined may be specified in the adoption order as the date of his birth.

(4) Subject to paragraph (5), where the place of birth of the child cannot be proved to the satisfaction of the court but it appears probable that the child was born in the United Kingdom, the Channel Islands or the Isle of Man, he may be treated as having been born in the registration district in which the court sits, and in any other case (where the country of birth is not approved) the particulars of the country of birth may be omitted from the adoption order.

(5) Where the child is free for adoption, any order made identifying the probable date and place of birth of the child in the proceedings under Article 17 or 18 or under section 18 of the 1976 Act

or section 18 of the 1978 Act shall be sufficient proof of the date and place of birth of the child in proceedings to which this rule applies.

Further proceedings after interim order

4A.25.—(1) Where an interim order is made under Article 26 and the application is postponed without a date being fixed for a further hearing, the applicant shall, at least 2 months before the expiration of the period specified in the interim order, obtain a date for the further hearing of the application from the Master, and if he fails to do so, the guardian ad litem shall obtain such a date.

(2) When the date for a further hearing is fixed the applicant shall, unless the Master otherwise directs, serve a notice in Form A12 or Form A13 of the hearing on the parties and to the guardian ad litem not less than one month before that date.