SCHEDULE 1

PART IVB

CONVENTION PROCEEDINGS

Introductory

4B.1. This Part shall apply to Convention proceedings and, subject to the provisions of this Part, rules 4A.2, 4A.14 to 4A.24 and Part IVC shall apply, with the necessary modifications, to Convention proceedings.

Application

4B.2.—(1) An applicant for a Convention adoption order shall state in his application that he is applying for a Convention adoption order.

(2) The application –

(a) need not contain paragraphs corresponding to paragraph 2, 24 or 25 of Form A9, but,

(b) shall contain the additional information required by Part III of Appendix 4.

Statement at hearing

4B.3. The requirements prescribed by regulations 19 and 30 of the Hague Convention Regulations may be established by a document executed by the applicant containing a statement to that effect attested in accordance with rule 4B.14 and such a statement shall be admissible in evidence without further proof of the signature of the applicant.

Form of consent

4B.4.—(1) Any document signifying the consent of a person to, or otherwise containing the opinion of a person on the making of, the Convention adoption order shall be in a form which complies with the internal law relating to adoption of the Convention country of which the child is a national : provided that where the court is not satisfied that a person consents with full understanding of what is involved, it may call for further evidence.

(2) A document referred to in paragraph (1) shall, if sufficiently witnessed, be admissible as evidence of the consent or opinion contained therein without further proof of the signature of the person by whom it is executed.

(3) A document referred to in paragraph (1) shall, if executed before the date of the applicant's application, be attached to that application.

Notice of hearing

4B.5.—(1) On serving notice of the hearing or notice of presentation on the parties as required under rule 4A.20, the applicant shall also serve notice on any person: –

(a) whose consent to the making of the order is required, not being an applicant, or

(b) who, in accordance with the internal law relating to adoption of the Convention country of which the child is a national has to be consulted about, but does not have to consent to, the adoption.

(2) Any person served or required to be served with notice under this rule shall be treated as if he had been served or was required to be served with notice under rule 4A.20.

Application to annul a Convention adoption or Convention adoption order

4B.6.—(1) An application for an order under Article 55A(1)(**1**) shall be made in Form A16 issued out of the Office.

(2) An application for an order under Article 55A(1) may be made by –

(a) the adopter or adopters, or

(b) the adopted person, or

(c) the relevant Central Authority, or

(d) the adoption agency, or

(e) the Board to whom notice under Article 22 was given (if different), or

(f) the Secretary of State for the Home Department.

(3) The Respondent shall be –

(a) the adopted person; and

(b) any adopter, not being the applicant.

(4) The court may require notice of the application to be served on such persons as it thinks fit.

Application for directions where a full adoption has not been made

4B.7.—(1) An application for a direction under Article 40(3A)(**2**) –

(a) may be made by the adopted child, the adopter or adopters or the birth parents of the child; and

(b) shall be made by in Form A17.

(2) The respondents shall be –

(a) the adopter or adopters (if not the applicant),

(b) the birth parents (if not the applicant),

(c) the adoption agency,

(d) the Board to whom notice under Article 22 was given (if different),

(e) the Attorney General

and the court may require notice of the application to be served on such other persons as it thinks fit, including the child, having regard to the child's age and degree of maturity.

Application to declare overseas adoption invalid or determination invalid or affected

4B.8.—(1) An application for an order or decision under Article 55A(2) shall be made in Form A18 issued out of the Office.

(2) The Respondent shall be –

(a) the adopted person; and

(b) any adopter, not being the applicant.

(**1**) Article 55A was inserted into the Order of 1987 by virtue of section 5 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

(**2**) Article 40(3A) was inserted into the Order of 1987 by virtue of section 4(3) of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

Evidence in support of application

4B.9.—(1) Evidence in support of an application under Article 55A shall be given by means of an affidavit in Form A19 which shall be filed within 14 days after the issue of the application.

(2) There shall be exhibited to the affidavit a statement of facts and there shall be filed with the affidavit expert evidence of any provision of foreign law relating to adoption on which the applicant intends to rely.

(3) The court may order any deponent to give oral evidence concerning the grounds stated in, or exhibited to, his affidavit.

Notice of order made under Article 55A

4B.10.—(1) Where under Article 55A the court has ordered that an adoption be annulled or that an adoption or a determination shall cease to be valid in Northern Ireland, the Master shall serve notice of the order on the Registrar General and, where it relates to a Convention adoption order or a Convention adoption, the relevant Central Authority, and shall state in the notice –

(a) the date of the adoption;

(b) the name and address of the authority which granted the adoption; and

(c) the names of the adopter or adopters and of the adopted person as given in the affidavit referred to in rule 4B.9.

Application for removal, return etc of the child in Convention proceedings

4B.11.—(1) Paragraph (2) shall apply where –

(a) a notice under regulation 16(1) of the Hague Convention Regulations has been given but not been complied with; or

(b) before such a notice was given an application for a Convention adoption order has been made and not disposed of.

(2) Where this paragraph applies, an application for the return of the child shall be made in writing by the Board to whom notice under Article 22 was given.

(3) The respondents shall be –

(a) the prospective adopter or adopters,

(b) the guardian ad litem,

(c) the adoption agency (if different)

and the court may require notice of the application to be served on such other persons as it thinks fit, including the child, having regard to the child's age and degree of maturity.

(4) Any respondent who wishes to contest the notice shall, within 7 days of service of the notice upon him, file and serve an answer.

(5) The Master shall list the case for hearing on a date not more than 21 days from the date the application under paragraph (2) was submitted to the court.

Specific applications

4B.12.—(1) Where a Convention adoption order is to be or has been sought and has not been disposed of the applicant or proposed applicant may apply to the court for an order –

(a) permitting the child to be known by a new surname, or

(b) permitting the child to be removed from the United Kingdom for a period of one month or more.

(2) The application under paragraph (1) shall be made –

(a) if an application for a Convention adoption order under Article 16A(**3**) is pending, on notice in those proceedings; or

(b) if no such application is pending, by filing written application in the court.

(3) The Master shall serve a copy of the application and a notice of the date of the hearing –

(a) in a case where proceedings for an adoption order are pending on all the parties to those proceedings and on the guardian ad litem;

(b) in any other case, on the adoption agency and the Board to whom notice under Article 22 was given.

Witnessing of documents

4B.13 A document shall be sufficiently attested for the purposes of this Part of these rules if it is witnessed by one of the following persons –

(a) if it is executed in Northern Ireland, the guardian ad litem, a justice of the peace, any officer of the Supreme Court appointed by the Lord Chief Justice in accordance with section 112 of the Judicature (Northern Ireland) Act 1978(**4**);

(b) if it is executed elsewhere, any person specified in rule 4A.7(2), (3) or (4), according to the country in which it is executed.

Service of documents

4B.14 Any document served out of the jurisdiction in a country in which English is not an official language shall be accompanied by a translation of the document in the official language of the country in which service is to be effected or, if there is more than one official language of the country, in any one of those languages which is appropriate to the place in that country where service is to be effected.

Translation of documents

4B.15 Where a translation of any document is required for the purposes of Convention proceedings, the translation shall, unless otherwise directed, be provided by the applicant.

(**3**) Article 16A was inserted into the Order of 1987 by section 3 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

(**4**) 1978 c. 23