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STATUTORY INSTRUMENTS

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**1997 No. 291**

**Act of Sederunt (Child Care and Maintenance Rules) 1997**

CHAPTER 2

ADOPTION OF CHILDREN

PART V

PARENTAL RESPONSIBILITIES ORDERS

**Variation and discharge of order**

**2.44.**—(1) In any proceedings in which a parental responsibilities order is granted under section 86 of the 1995 Act, any of the persons referred to in subsection (5) of that section may by minute make application for the variation or discharge of that order (in this rule referred to as an “application”).

(2) An application shall contain—

- (a) the name and address of the applicant and his relationship to and interest in the child;
- (b) the name and address of the local authority which made the application for the parental responsibilities order (“the original application”), the child, the curator *ad litem* appointed in terms of rule 2.39, any relevant person and any other person who was a party to the original application;
- (c) details of the original application;
- (d) the grounds on which variation or discharge is sought; and
- (e) details of the order sought by the applicant.

(3) The sheriff may, on the lodging of a minute under paragraph (1), appoint a curator *ad litem* who shall have regard to the welfare of the child as his paramount duty and shall further—

- (a) investigate the facts, as contained in the application;
- (b) investigate the care of the child with regard to the promotion of his welfare throughout his life;
- (c) ascertain from the child whether he wishes to express a view and, where a child indicates his wish to express a view, ascertain that view,

and, subject to paragraph (4), shall report in writing thereon to the sheriff within 4 weeks from the date of the interlocutor appointing the curator, or within such other period as the sheriff in his discretion may allow.

(4) Rule 2.41 shall apply to an application and, subject to any order thereunder, the views of the child ascertained in terms of paragraph (3)(c) may, if the curator *ad litem* considers appropriate, be conveyed to the sheriff orally.

(5) Subject to paragraphs (6) and (7), rules 2.42 and 2.43 shall apply to an application as they apply to an application for a parental responsibilities order.

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**Status:** This is the original version (as it was originally made).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

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(6) Intimation of the diet of hearing of an application shall be in Form 20 and shall be given, in addition to the persons referred to in rule 2.42(2), to the persons referred to in paragraph (2)(b).

(7) Where an order is made granting the application, that order shall be in Form 21 and the making of such an order shall be intimated to the persons referred to in paragraph (2)(b).