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STATUTORY INSTRUMENTS

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**2005 No. 2795**

**The Family Procedure (Adoption) Rules 2005**

**PART 6**

**SERVICE**

*SECTION 2*

*SERVICE OUT OF THE JURISDICTION*

**Scope and definitions**

**42.**—(1) This Section contains rules about—

- (a) service out of the jurisdiction; and
- (b) the procedure for serving out of the jurisdiction.  
(Rule 6 defines “jurisdiction”.)

(2) In this Section—

- “application form” includes application notice; and
- “the Hague Convention” means the Convention on the service abroad of judicial and extra-judicial documents in civil or commercial matters signed at the Hague on November 15, 1965<sup>(1)</sup>.

**Service of documents**

**43.**—(1) Any document to be served for the purposes of these Rules may be served out of the jurisdiction without the permission of the court.

(2) Subject to paragraph (4) or (5), any document served out of the jurisdiction in a country in which English is not the official language must be accompanied by a translation of the document—

- (a) in the official language of the country in which the document is to be served; or
- (b) 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 in which the document is to be served.

(3) Every translation filed under this rule must be signed by the translator to certify that the translation is accurate.

(4) Any document served out of the jurisdiction in a country in which English is not the official language need not be accompanied by a translation of the document where—

- (a) the person on whom the document is to be served is able to read and understand English; and
- (b) service of the document is to be effected directly on that person.

(5) Paragraphs (2) and (3) do not apply where service is to be effected in accordance with the Service Regulation.

**Method of service – general provisions**

**44.**—(1) Where an application form is to be served out of the jurisdiction, it may be served by any method—

- (a) permitted by the law of the country in which it is to be served; or
- (b) provided for by—
  - (i) rule 45 (service through foreign governments, judicial authorities and British Consular authorities); or
  - (ii) rule 47 (service in accordance with the Service Regulation).

(2) Nothing in this rule or in any court order will authorise or require any person to do anything in the country where the application form is to be served which is against the law of that country.

**Service through foreign governments, judicial authorities and British Consular authorities**

**45.**—(1) Where an application form is to be served on a respondent in any country which is a party to the Hague Convention, the application form may be served—

- (a) through the authority designated under the Hague Convention in respect of that country; or
- (b) if the law of that country permits—
  - (i) through the judicial authorities of that country; or
  - (ii) through a British Consular authority in that country.

(2) Where an application form is to be served on a respondent in any country which is not a party to the Hague Convention, the application form may be served, if the law of that country so permits—

- (a) through the government of that country, where that government is willing to serve it; or
- (b) through a British Consular authority in that country.

(3) Paragraph (2) does not apply where the application form is to be served in—

- (a) Scotland, Northern Ireland, the Isle of Man or the Channel Islands;
- (b) any Commonwealth State; or
- (c) any United Kingdom Overseas Territory listed in the relevant practice direction.

(4) This rule does not apply where service is to be effected in accordance with the Service Regulation.

**Procedure where service is to be through foreign governments, judicial authorities and British Consular authorities**

**46.**—(1) This rule applies where the applicant wishes to serve the application form through—

- (a) the judicial authorities of the country where the application form is to be served;
- (b) a British Consular authority in that country;
- (c) the authority designated under the Hague Convention in respect of that country; or
- (d) the government of that country.

(2) Where this rule applies, the applicant must file—

- (a) a request for service of the application form by the method in paragraph (1) that he has chosen;

- (b) a copy of the application form;
  - (c) any translation required under rule 43; and
  - (d) any other documents, copies of documents or translations required by the relevant practice direction.
- (3) When the applicant files the documents specified in paragraph (2), a court officer will—
- (a) seal, or otherwise authenticate with the stamp of the court, the copy of the application form; and
  - (b) forward the documents to the Senior Master of the Queen’s Bench Division.
- (4) The Senior Master will send documents forwarded under this rule—
- (a) where the application form is being served through the authority designated under the Hague Convention, to that authority; or
  - (b) in any other case, to the Foreign and Commonwealth Office with a request that it arranges for the application to be served by the method indicated in the request for service filed under paragraph (2) or, where that request indicates alternative methods, by the most convenient method.
- (5) An official certificate will be evidence of the facts stated in the certificate if it—
- (a) states that the application form has been served in accordance with this rule either personally, or in accordance with the law of the country in which service was effected;
  - (b) specifies the date on which the application form was served; and
  - (c) is made by—
    - (i) a British Consular authority in the country where the application form was served;
    - (ii) the government or judicial authorities in that country; or
    - (iii) any other authority designated in respect of that country under the Hague Convention.
- (6) A document purporting to be an official certificate under paragraph (5) will be treated as such a certificate, unless it is proved not to be.
- (7) This rule does not apply where service is to be effected in accordance with the Service Regulation.

### **Service in accordance with the Service Regulation**

- 47.**—(1) This rule applies where an application form is to be served in accordance with the Service Regulation.
- (2) The applicant must file the application form and any translations or other documents required by the Service Regulation.
- (3) When the applicant files the documents referred to in paragraph (2), a court officer will—
- (a) seal, or otherwise authenticate with the stamp of the court, the copy of the application form; and
  - (b) forward the documents to the Senior Master of the Queen’s Bench Division.
- (The Service Regulation is annexed to the relevant practice direction.)

### **Undertaking to be responsible for expenses of the Foreign and Commonwealth Office**

- 48.** Every request for service filed under rule 46 (service through foreign governments, judicial authorities etc.) must contain an undertaking by the person making the request—

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- (a) to be responsible for all expenses incurred by the Foreign and Commonwealth Office or foreign judicial authority; and
- (b) to pay those expenses to the Foreign and Commonwealth Office or foreign judicial authority on being informed of the amount.