
STATUTORY RULES OF NORTHERN IRELAND

1981 No. 225

County Court Rules (Northern Ireland) 1981

ORDER 50

Adoption

PART I

COMMENCEMENT OF PROCEEDINGS

Interpretation

1. In this Order—

- (a) “the Act” means the Adoption Act (Northern Ireland) 1967(1);
- (b) “adoption order” includes a provisional adoption order within the meaning of section 38 of the Act;
- (c) “area board” means the Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972 for the area in which the petitioner is, or was at the relevant time, resident;
- (d) “chief clerk” means the chief clerk for the county court division in which the application is being made;
- (e) “Registrar General” means the Registrar General for Northern Ireland.

Notice to Health and Social Services Board under section 3(1)(b) of Act

2. Where service of notice to an area board of intention to apply for an adoption order is required under section 3(1)(b) of the Act such notice shall be in Form 249 and an affidavit of such service in accordance with Rule 26 shall be lodged with the chief clerk together with the copy of any such notice exhibited to the petition in accordance with Rule 26(2).

Application to be by petition

3.—(1) Subject to paragraph (2), an application for an adoption order shall be made by petition in Form 250.

(2) An application for a provisional adoption order under section 38 of the Act shall be made by petition in Form 251.

Sittings at which petitions to be heard

4. Every petition shall be listed for hearing at and heard at the sitting of the court for equity matters or on such other day or days as the Judge may appoint.

Issue of petition

5. The petition shall be submitted, in accordance with Rule 26, to the chief clerk for issuing not less than one month before the day appointed for the hearing together with copies for service in accordance with Rule 7(1) and a copy for the use of the court; and he shall issue the petition by assigning a serial number thereto, and endorsing on the original and copies thereof a notice of the date of hearing and an interim appointment of the appropriate area board as guardian ad litem and shall return the copies for service.

Verification of petition and documents to be exhibited thereto

6.—(1) Every petition and every document exhibited thereto under paragraph (2) shall be verified by affidavit in the form appended to Forms 250 and 251.

(2) Every document proper for proving the statements in the petition shall be exhibited thereto and in particular—

- (a) where notice under section 3(1)(b) of the Act is required to be served on the area board, a copy of the notice served;
- (b) except where the petitioner desires the court under section 5(1) of the Act to dispense with the consent of a parent or guardian of the infant, a document attested in accordance with section 6(3) of the Act signifying the consent of every parent or guardian of the infant in Form 252;
- (c) except where the petitioner desires the court under section 5(3) of the Act to dispense with the consent of his or her spouse or except where the petition is made jointly by two spouses, a statutory declaration in Form 253 signifying the consent of the spouse of the petitioner;
- (d) where the petition is a joint petition by spouses, their marriage certificate or other evidence of marriage;
- (e) where the birth of the infant has been registered or where the infant has been previously adopted, the birth certificate or, as the case may be, a certified copy of the entry in the Adopted Children Register, referred to in the Form of consent by the parent or guardian;
- (f) except where the petitioner is the mother or father of the infant or the infant has reached the upper limit of compulsory school age, the certificate of a fully-registered medical practitioner as to the health of the petitioner or petitioners which may be in Form 254.

Service of petition or notice of presentation

7.—(1) The petitioner shall, not less than twenty-one days before the day appointed for the hearing of the petition, serve a copy of the petition on the guardian ad litem and, unless he desires his identity to be kept confidential, upon—

- (a) the parents (other than a petitioning parent) or guardian (if known) of the infant;
- (b) any person liable by virtue of any order or agreement to contribute to the support of the infant;
- (c) any person or body having the rights and powers of a parent of the infant under section 104 of or paragraph 14(1) of Schedule 5 to the Children and Young Persons Act (Northern Ireland) 1968(2);
- (d) the area board to whom the applicant has given notice under section 3(1) of the Act, where such area board is not the guardian ad litem;
- (e) any adoption society or, without prejudice to the foregoing, any local authority who has taken part in the arrangements for the adoption of the infant; and

(2) 1968 c.34 (N.I.)

(f) any other person whom the court may direct;
and the court may, in its discretion, dispense with service of the copy of the petition or notice referred to in paragraph (2) on any of the persons mentioned in sub-paragraphs (a) to (e).

(2) If the petitioner desires, as stated in the petition, that his identity be kept confidential he shall, in lieu of a copy of the petition, serve upon the persons mentioned in paragraph (1)(a) to (f) a copy of a notice in Form 255.

(3) If the petitioner has no solicitor acting for him, the notice in Form 255 of the presentation of the petition shall be signed by the chief clerk.

Notice of objection to the making of an adoption order

8. Anyone wishing to object to the grant of an adoption order shall within ten days of the date of service on him of a copy of the petition or, as the case may be, notice of the presentation of the petition, give the chief clerk written notice of his intention to object quoting the serial number of the petition.

Appointment of guardian ad item

9.—(1) The chief clerk shall, after receipt of the petition, make an interim appointment of the appropriate area board as a guardian ad litem under section 11 of the Act, which appointment may be incorporated in the form of notice to be endorsed on the petition at the time of its issue.

(2) Such appointment may be confirmed by the judge or he may make another appointment under the said section 11.

(3) Rule 15 of Order 3 shall not apply to the appointment of a guardian ad litem under this Rule.

Functions of guardian ad item

10.—(1) The guardian ad litem shall, with a view to safeguarding the welfare of the infant, investigate as fully as possible all the circumstances relevant to the proposed adoption and shall, not later than seven days before the date appointed for the hearing of the petition, serve on the chief clerk a confidential report setting forth all the relevant circumstances including the following information:

- (a) particulars of the accommodation in the petitioner's home, its condition and of all the members of the petitioner's household;
- (b) the means of the petitioner and whether they are such as to enable him to bring up the infant suitably;
- (c) whether the petitioner suffers or has suffered from any serious illness and whether there is any history of tuberculosis, epilepsy or mental illness in the petitioner's family;
- (d) the occupation or status of the petitioner;
- (e) where the petition is that of one only of two spouses, why the other spouse is not a joint petitioner;
- (f) whether the petitioner understands the nature of an adoption order and, in particular, that the order if made will render him responsible for the maintenance and upbringing of the infant;
- (g) what rights, if any, the infant has in any property;
- (h) whether any insurance policy has been effected on the life of the infant, including any insurance relating to the infant under the enactments relating to friendly societies, collecting societies or industrial insurance companies to which section 21 of the Act

applies whereby the rights and liabilities under such insurance will by virtue of an adoption order be transferred to the adopters;

- (i) whether any person or body has given or agreed to give or, Whether directly or indirectly, agreed to receive any payment or reward whatsoever in consideration of or in connection with the adoption of the infant;
 - (j) whether the infant is able to understand the nature of an adoption order and, if so, whether the infant wishes to be adopted by the applicant;
 - (k) except where the petitioner or one of the petitioners is the mother of the infant, the date on which the mother of the infant ceased to have the infant in her care and possession and the name of any person to whom such care and possession was transferred;
 - (l) whether every consent to the making of an adoption order was freely given and with full understanding of the nature and effect of such order;
 - (m) where either parent of the infant is dead, who are the infant's surviving relatives and whether any such relative, so far as may be ascertained, wishes to be heard on the petition;
 - (n) where the infant is illegitimate, whether an affiliation order has been made in favour of the mother of the infant and the name, if known to the guardian ad litem, of the putative father or if anyone as putative father is liable by virtue of any order or agreement to contribute to the maintenance of the infant and whether the putative father wishes to be heard on the petition;
 - (o) whether the infant has been baptised;
 - (p) if the infant has been medically examined, a report of the examination;
 - (q) the religious persuasion of the petitioner;
 - (r) why the petitioner wishes to adopt the infant;
 - (s) such other information including an assessment of the applicant's personality and, where appropriate, that of the infant as has a bearing on the mutual suitability of the petitioner and the infant and on the ability of the petitioner to bring lip the infant.
- (2) Without prejudice to paragraph (1), the guardian ad litem shall inform the court if he learns of any person or body who wishes or ought, in his opinion, to be heard by the court on the question whether an adoption order should be made.
- (3) The guardian ad litem shall ascertain and inform the petitioner—
- (a) what treatment the infant has received with a view to immunising him against disease;
 - (b) whether an insurance policy for the payment of funeral expenses on the death of the infant has been effected.

PART II

HEARING OF PETITION

Objections

11.—(1) Where the chief clerk receives notice of objection under Rule 8 he shall notify the judge, the petitioner or his solicitor and the guardian ad litem, and the judge shall direct what steps are to be taken.

(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 may make such direction or order as appears just.

Procedure on the hearing

12.—(1) Any proceedings under the Act shall be heard in Chambers.

(2) Without prejudice to Rule 26(2), evidence may be given orally or on affidavit, but the judge may where the evidence of any party is on affidavit require such person to give oral evidence.

(3) The court may refuse to make an adoption order, unless all parties, including the infant, attend before it, but it shall have power in its discretion to dispense with the attendance of any party, including the infant.

Privacy of proceedings

13.—(1) The court may direct that any of the parties shall attend separately and apart from the others or that any party, including the infant, shall be interviewed privately and separately.

(2) Without prejudice to Rule 12(1), adoption proceedings shall in general and, in particular, having due regard to any express statement in a petition that the petitioner desires his identity to be kept confidential, where practicable, be so conducted as to ensure that a petitioner is not seen by or made known to any person whose consent to the adoption order is required.

Provisional adoption orders

14.—(1) An applicant for a provisional adoption order shall provide evidence of the law of adoption of the country in which he is domiciled.

(2) An affidavit as to that law sworn by a person who is conversant with it and who practises or has practised as a barrister or advocate in that country or is a duly-accredited representative of the government of that country in the United Kingdom shall, if it is exhibited to the petitioner for the provisional adoption order, be admissible without any such notice as is required by Rule 5 of Order 24.

(3) Where, owing to special circumstances, a petition for a provisional adoption order appears proper to be dealt with by the Lord Chief Justice, the court may direct that such petition be transferred accordingly.

(4) Where a direction is made under paragraph (3), the chief clerk shall transmit the petition and all other documents in his possession relating thereto to the Master (Care and Protection).

Interim Orders

15.—(1) Where the court under section 8 of the Act postpones the determination of the application for an adoption order and makes an interim order in accordance with that section, the interim order shall be in Form 256 and the forms and duration of the order specified under subsection (1) of that section shall be fully set out in the order.

(2) The petitioner shall, not less than twenty-one days before the expiration of the period specified in the interim order, or such extended period as the court may in special circumstances allow, serve on the guardian ad litem and such other person or persons (if any) as the court may direct, an application for the final determination of his petition for an adoption order or for the discharge of the interim order, as the case may be, and not less than seven days before the day appointed for the hearing of the application file a copy thereof with the chief clerk together with the affidavit of such service in accordance with Rule 26.

(3) An application for the final determination of a petition for an adoption order referred to in paragraph (2) shall be in Form 257 and an application for the discharge of the interim order shall be in Form 258.

(4) An application by a guardian ad litem under section 8(6) of the Act for the final determination of the petition for an adoption order shall be in Form 259 and the guardian ad litem shall, not less than

twenty-one days before the day appointed for the hearing of the application, serve such application on the petitioner and on such other persons, if any, as the court may direct and not less than seven days before that day file a copy thereof with the chief clerk together with the affidavit of such service in accordance with Rule 26.

(5) The provisions of Rules 12 and 13 shall apply to an application for the final determination of a petition for an adoption order or for the discharge of an interim order in accordance with this Rule.

(6) An order discharging an interim order shall be in Form 260.

PART III GENERAL

Where previous application made for adoption of same infant

16. If it appears that the applicant has previously made an application for an adoption order in respect of the same infant to the High Court or to a county court and that the court after hearing the application refused to grant such order, the chief clerk shall bring the matter to the attention of the judge and the court shall not proceed on the application unless the judge is satisfied that there has been a substantial change in the circumstances since the previous application.

Cases more fit to be dealt with by the High Court

17. Subject to Rule 14(3), if owing to special circumstances any application appears to the judge more fit to be dealt with by the High Court, he may, at any stage of the proceedings, refuse on that ground expressly to make an order.

Attestation of consent when executed outside United Kingdom

18.—(1) Where a document signifying the consent of a parent or guardian to an adoption order is executed outside the United Kingdom it shall be sufficiently attested for the purposes of section 6(3) of the Act if it is attested by any of the following persons—

- (a) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or legal purpose;
- (b) a British consular officer;
- (c) a notary public; or
- (d) if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.

(2) In paragraph (1)(d) the expression “regular armed forces of the Crown” means the Royal Navy, the regular forces as defined by section 225 of the Army Act 1955(3), the regular air force as defined by section 223 of the Air Force Act 1955(4), the Women's Royal Naval Service, Queen Alexandra's Royal Naval Nursing Service and Voluntary Aid Detachments serving with the Royal Navy.

Keeping of documents and information

19.—(1) All documents relating to proceedings under the Act, the Adoption of Children Act (Northern Ireland) 1950(5) or any enactment repealed by the said Act of 1950 shall, while they are in the custody of the court, be kept in a place of special security.

(3) 1955 c. 18
(4) 1955 c. 19
(5) 1950 c. 6 (N.I.)

(2) Any information obtained by any person in the course of, or relating to proceedings under the said Acts, shall be treated as confidential and shall not be disclosed by him except so far as may be necessary for the proper execution of his duty.

Birth certificates

20.—(1) Where the infant is identified in the petition for an adoption order 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 referred to in a form of consent by a parent or a guardian of the infant, the infant whom the petitioner desires to adopt shall be deemed, unless the contrary appears, to be identical with the infant to whom the form of consent refers.

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

Form and transmission of orders

21.—(1) Subject to paragraph (2), an adoption order shall be in Form 261.

(2) A provisional adoption order shall be in Form 262 and in the fifth column of the Schedule thereto there shall be recorded the fact that the order is provisional.

(3) It shall be the duty of the applicant or his solicitor to forward to the chief clerk the appropriate form of order for signing and sealing, within one month from the date of hearing.

(4) The chief clerk shall be the prescribed officer for the purposes of section 24(6) and of section 25(2) of the Act and upon the making of an adoption order or an amendment to such order, he shall forward to the Registrar General a sealed copy thereof by registered post or by the recorded delivery service in an envelope marked “Confidential”.

Copies of adoption orders not to be supplied except in certain cases

22.—(1) The chief clerk shall not supply a copy of or any information relating to an adoption order or an interim order or allow access to any file except—

- (a) in accordance with Rule 21(4); or
- (b) at the request of the Registrar General, the adopters or a petitioner; or
- (c) on the application of any person under an order of the judge.

(2) This Rule also applies to an adoption order or an interim order made under the Adoption of Children Act (Northern Ireland) 1950 or any enactment repealed by that Act.

Notice of decision of court to be given

23. Where a person has objected to the making of an adoption order, the chief clerk shall as soon as practicable after the decision of the court on the application for such order, give notice thereof to that person and to the petitioner.

Notice to court by which an affiliation order has been made

24. Where an adoption order is made in respect of an infant who is illegitimate, then, unless the adopter is the mother of such infant and she is a single woman, the chief clerk shall serve notice of the order on any court which appears to him to have made an affiliation order which is still in force with respect to the infant.

Application for amendment or revocation of adoption orders, supply of copies, etc.

25.—(1) An application—

- (a) under section 25(1) of the Act for the amendment of an adoption order or for the revocation of a direction for the marking of an entry in the Register of Births or Adopted Children Register;
- (b) under section 3 of the Legitimacy Act (Northern Ireland) 1961⁽⁶⁾ for the revocation of an adoption order;
- (c) under Rule 22(1)(c) for the supply of a copy of, or information relating to, an adoption order; or
- (d) under section 23(3) of the Act for an order for the furnishing of information contained in the books kept by the Registrar General under section 23(1)(c) thereof;

may be made *ex parte* in the first instance, but the Judge may require notice of the application to be served on such persons as he may direct.

(2) Where an application referred to in sub-paragraph (a) or (b) of paragraph (1) is granted, the chief clerk shall send to the Registrar General a notice specifying the date of the adoption order and the names of the adopter and of the adopted person as given in the Schedule to the adoption order and either stating the amendments to the adoption order made by the court or informing him of the revocation of the direction or adoption order, as the case may be.

(3) Where an application referred to in sub-paragraph (d) of paragraph (1) is granted, the chief clerk shall send a copy of the order of the court to the Registrar General.

(4) Such notice or order shall be contained in an envelope marked “Confidential” and sent by registered post or by the recorded delivery service.

(5) Where an adoption order made under the Adoption of Children Act (Northern Ireland) 1929⁽⁷⁾ or under the Adoption of Children Act (Northern Ireland) 1950⁽⁸⁾ is amended, the said notice shall be in a form similar to the Schedule to Form 261 and contain all the particulars to be entered in the Adopted Children Register.

Service and filing of documents

26.—(1) A notice or other document or copy thereof required to be served or sent under the Act or this Order may be served personally on the person to be served or sent by registered post or by the recorded delivery service in an envelope addressed to the person to be served at his place of residence or, in the case of service on an area board or other body, addressed to it at its official address or by delivering it personally to the secretary, clerk or other responsible officer of the authority or body at its office.

(2) Proof of service of documents under the Act and this Order shall be on affidavit.

(3) Where a document is served by post in accordance with this Rule—

- (a) the envelope in which it is enclosed shall be marked “Confidential”; and
- (b) the receipt for its posting shall be attached to the copy thereof referred to in the affidavit of posting.

(4) A petition submitted to the chief clerk for issue under Rule 5, and any notice, affidavit, or other document or copy thereof required to be filed with the chief clerk under these Rules shall be so submitted, or, as the case may be, filed either by delivery thereof to him personally or to some

⁽⁶⁾ 1961 c. 5 (N.I.)

⁽⁷⁾ 1929 c. 15 (N.I.)

⁽⁸⁾ 1950 c. 6 (N.I.)

responsible person at his office or by sending the document by registered post or by the recorded delivery service in an envelope addressed to him at that office.

(5) Notwithstanding anything in Order 6, any notice, petition or other document referred to in this Rule may be served by a process server, a solicitor or member of the staff of that solicitor's office over sixteen years of age.

Enlargement or abridgement of time in special circumstances

27. The court shall have power, in special circumstances, to enlarge or abridge the time appointed or allowed by this Order (not being a time specified in the Act) for doing any act or taking any proceedings, upon such terms (including terms as to costs) as it thinks fit and any enlargement may be ordered although the application therefor is not made until after the expiration of the time appointed or allowed.

Application of equity practice and procedure

28. In any matter not provided for in the foregoing rules, the practice and procedure of the Court in equity matters shall be followed.