
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 322

The Family Proceedings Rules (Northern Ireland) 1996

Part IV

Children (Northern Ireland) Order 1995

Interpretation and application

4.1.—(1) In this Part of and in Appendix 3 to these Rules, unless a contrary intention appears—
“the Allocation Order” means the Children (Allocation of Proceedings) Order (Northern Ireland) 1996(1);

an Article or Schedule referred to by number means the Article or Schedule so numbered in the Order of 1995;

“an Article 8 order” has the same meaning as in Article 8(2);

“application” means an application made under or by virtue of the Order of 1995 or under these Rules and “applicant” shall be construed accordingly;

“authority” has the same meaning as in Article 2(2);

“child”, in relation to proceedings to which this Part applies—

(a) means, subject to sub-paragraph (b), a person under the age of 18 with respect to whom the proceedings are brought, and

(b) where the proceedings are under Schedule 1, also includes a person who has reached the age of 18;

“directions appointment” means a hearing for directions under rule 4.15;

“family care centre” means a county court which has been specified as a family care centre in the Allocation Order;

“guardian ad litem” means a guardian ad litem, appointed under Article 60, of the child with respect to whom the proceedings are brought;

“leave” includes permission and approval;

“parental responsibility” has the same meaning as in Article 6;

“Parties” means the respondents specified in column (iii) of Appendix 3 and the applicant;

“specified proceedings” has the same meaning as in Article 60(6) and Rule 4.3(2);

“welfare officer” means a person who has been asked to prepare a welfare report under Article 4.

(2) Except where the contrary intention appears, the provisions of this Part apply to proceedings in the High Court and a county court—

(a) on an application for an Article 8 order;

- (b) on an application for a care order or supervision order under Article 50;
- (c) on an application under Articles 7(1)(a), 7(4), 13(1), 16(6), 33, 44, 52(7), 53(2), 53(3), 53(4), 53(9), 55(1), 57(8)(b), 58(1), 58(2), 58(3), 58(4), 62(1), 62(12), 63, 64, 67(9), 69(1), 159(1), 163(1), 178(1);
- (d) under Schedule 1, except, where financial relief is also sought by or on behalf of an adult;
- (e) on an application under paragraph 6(3) of Schedule 3;
- (f) on an application under paragraph 5(2) or 7(1) of Schedule 4; or
- (g) on an application under paragraph 10(3) or 12(4) of Schedule 8.

Proceedings in chambers

4.2. Unless the court otherwise directs proceedings to which this Part applies shall be heard by a judge in chambers.

Matters prescribed for the purposes of the Order of 1995

4.3.—(1) The parties to proceedings in which directions are given under Article 57(6) and any person named in such a direction, form the prescribed class for the purposes of Article 57(8)(b) (application to vary directions made with interim care or interim supervision order).

(2) The following proceedings are specified for the purposes of Article 60 in accordance with paragraph 6(i) thereof—

- (a) proceedings under Article 33(1);
- (b) proceedings under Article 44;
- (c) applications under Article 52(7);
- (d) proceedings under paragraph 6(3) of Schedule 3;
- (e) appeals against the determination of proceedings of a kind set out in sub-paragraphs (a) to (d).

(3) The applicant for an order that has been made under Article 62(1) and the persons referred to in Article 62(11) may, in any circumstances, apply under Article 62(12) for a child assessment order to be varied or discharged.

(4) The following persons form the prescribed class for the purposes of Article 63(9)(b) (application to vary directions)—

- (a) the parties to the application in which it is sought to vary the directions;
- (b) the guardian ad litem;
- (c) the Board or Trust in whose area the child is ordinarily resident;
- (d) any person who is named in the directions.

Application for leave to commence proceedings

4.4.—(1) Where the leave of the court is required to bring any proceedings to which this Part applies, the person seeking leave shall file—

- (a) a written request for leave in Form C2 setting out the reasons for the application; and
- (b) a draft of the application (being the documents referred to in rule 4.5(2)) for the making of which leave is sought together with sufficient copies for one to be served on each respondent.

(2) The documents referred to in paragraph (1) shall—

- (a) in relation to an application to the High Court be filed in the Office of Care and Protection or, where rule 2.38 applies, in the Matrimonial Office;
 - (b) in relation to an application to a county court be filed in the county court office.
- (3) On considering a request for leave filed under paragraph (1), the court shall—
- (a) grant the request, whereupon the proper officer or chief clerk shall inform the person making the request of the decision, or
 - (b) direct that a date be fixed for the hearing of the request, whereupon the proper officer or chief clerk shall fix such a date and give such notice as the court directs to the person making the request and to such other persons as the court requires to be notified of the date so fixed.
- (4) Where leave is granted to bring proceedings to which this Part applies the application shall proceed in accordance with rule 4.5 but paragraph (1)(a) of that rule shall not apply.
- (5) In the case of a request for leave to bring proceedings under Schedule 1, the draft application under paragraph (1) shall be accompanied by a statement in Form C7A setting out the financial details which the person seeking leave believes to be relevant to the request and containing a declaration that it is true to the maker's best knowledge and belief, together with sufficient copies for one to be served on each respondent.

Application

- 4.5.—**(1) Subject to paragraph (5), an applicant shall—
- (a) file the documents referred to in paragraph (2) (which documents shall together be called “the application”) together with sufficient copies for one to be served on each respondent—
 - (i) in relation to an application to the High Court, in the Office of Care and Protection or, where rule 2.38 applies, in the Matrimonial Office;
 - (ii) in relation to an application to a county court in the county court office; and
 - (b) serve a copy of the application together with Form C3 and such (if any) of Forms C4 and C7A as are given to him under paragraph (3)(b) on each respondent such number of days prior to the date fixed under paragraph 3(a) as is specified for that application in column (ii) of Appendix 3.
- (2) The documents to be filed under paragraph (1)(a) are—
- (a) (i) whichever is appropriate of Forms C1 or C2 and
 - (ii) such of the supplemental Forms C10 or C11 to C17 as may be appropriate, or
 - (b) where there is no appropriate form a statement in writing of the order sought,
- and where the application is made in respect of more than one child, all the children shall be included in one application.
- (3) On receipt of the documents filed under paragraph (1)(a) the proper officer or chief clerk shall—
- (a) fix the date for a hearing or a directions appointment allowing sufficient time for the applicant to comply with paragraph (1)(b),
 - (b) endorse the date so fixed upon Form C3 and, where appropriate, Form C3A and
 - (c) return forthwith to the applicant the copies of the application and Form C7A if filed with it, together with Form C3 and such of Forms C3A and C4 as are appropriate.
- (4) The applicant shall, at the same time as complying with paragraph (1)(b) serve Form C3A on the persons set out for the relevant class of proceedings in column (iv) of Appendix 3.

(5) In the case of proceedings under Schedule 1, the application under paragraph (1) shall be accompanied by a statement in Form C7A setting out the financial details which the applicant believes to be relevant to the application and containing a declaration that it is true to the maker's best knowledge and belief, together with sufficient copies for one to be served on each respondent.

Withdrawal of application

4.6.—(1) An application may be withdrawn only with leave of the court.

(2) Subject to paragraph (3), a person seeking leave to withdraw an application shall file and serve on the parties a written request for leave in Form C2 setting out the reasons for the request.

(3) The request under paragraph (2) may be made orally to the court if the parties and, if appointed, either the guardian ad litem or the welfare officer are present.

(4) Upon receipt of a written request under paragraph (2) the court shall—

(a) if—

(i) the parties consent in writing,

(ii) the guardian ad litem has had an opportunity to make representations, and

(iii) the court thinks fit,

grant the request, in which case the proper officer or chief clerk shall notify the parties, any guardian ad litem and any welfare officer of the granting of the request, or

(b) direct that a date be fixed for the hearing of the request in which case the proper officer or chief clerk shall give at least 7 days' notice to the parties, the guardian ad litem and the welfare officer, of the date fixed.

Transfer of proceedings

4.7.—(1) Where an application is made, in accordance with Article 9 of the Allocation Order, for an order transferring proceedings from a family proceedings court or other court of summary jurisdiction following the refusal of that court to order such a transfer, the applicant shall—

(a) file the application in Form C2 with the chief clerk in the family care centre to which the proceedings are sought to be transferred, together with a copy of the certificate issued by the family proceedings court or other court of summary jurisdiction; and

(b) serve a copy of the documents mentioned in sub-paragraph (a) personally on all parties to the proceedings which it is sought to have transferred,

within 2 days after receipt by the applicant of the certificate.

(2) Within 2 days after receipt of the documents served under paragraph (1)(b) any party other than the applicant may file written representations.

(3) The court shall, not before the fourth day after the filing of the application under paragraph (1) unless the parties consent to earlier consideration, consider the application and either—

(a) grant the application whereupon the chief clerk shall inform the parties of that decision, or

(b) direct that a date be fixed for the hearing of the application, whereupon the chief clerk shall fix such a date and give not less than 1 day's notice to the parties of the date so fixed.

(4) A copy of an order transferring proceedings to a family care centre in accordance with Article 9 of the Allocation Order, shall be sent by the chief clerk to the court from which the proceedings are transferred.

(5) Where proceedings are transferred to a family care centre in accordance with Article 5 or 8 of the Allocation Order the family care centre shall consider whether to transfer those proceedings to the High Court in accordance with Article 10 of that Order and either—

- (a) determine that an order for such transfer need not be made;
 - (b) make such an order for transfer;
 - (c) order that a date be fixed for the hearing of the question whether such an order for transfer should be made, whereupon the chief clerk shall give such notice to the parties as the court directs of the date so fixed, or
 - (d) invite the parties to make written representations within a specified period, as to whether such an order should be made; and upon receipt of the representations the court shall act in accordance with sub-paragraphs (a), (b) or (c).
- (6) Where proceedings are transferred to the High Court under paragraph (5) any relevant documentation shall be sent by the chief clerk to the Office of Care and Protection.
- (7) The proper officer shall notify the parties of an order transferring proceedings from the High Court in accordance with Article 13 or 14 of the Allocation Order and a copy of the order shall be sent to the court to which the proceedings are transferred.
- (8) The chief clerk shall notify the parties of an order transferring proceedings in accordance with Article 11 or 12 of the Allocation Order and a copy of the order shall be sent to the court to which the proceedings are transferred.
- (9) An order under this rule transferring proceedings in accordance with the Allocation Order shall be in Form C43 and shall be served on the parties by the proper officer or chief clerk as the case may be.

Parties

- 4.8.**—(1) The respondents to proceedings to which this Part applies shall be those persons set out in the relevant entry in column (iii) of Appendix 3.
- (2) In proceedings to which this Part applies a person may file a request in Form C2 that he or another person—
- (a) be joined as a party, or
 - (b) cease to be a party.
- (3) On considering a request under paragraph (2) the court shall, subject to paragraph (4)—
- (a) grant it without a hearing or representations, save that this shall be done only in the case of a request under paragraph (2)(a), whereupon the proper officer or chief clerk shall inform the parties and the person making the request of that decision, or
 - (b) order that a date be fixed for the consideration of the request, whereupon the proper officer or chief clerk shall give notice of the date so fixed, together with a copy of the request—
 - (i) in the case of a request under paragraph (2)(a), to the applicant, and
 - (ii) in the case of a request under paragraph (2)(b), to the parties, or
 - (c) invite the parties or any of them to make written representations, within a specified period, as to whether the request should be granted; and upon the expiry of the period the court shall act in accordance with sub-paragraph (a) or (b).
- (4) Where a person with parental responsibility requests that he be joined under paragraph (2) (a), the court shall grant his request.
- (5) In proceedings to which this Part applies the court may direct—
- (a) that a person who would not otherwise be a respondent under these rules be joined as a party to the proceedings, or
 - (b) that a party to the proceedings cease to be a party.

Service under this Part of the Rules

4.9.—(1) In proceedings to which this Part applies, the court may direct that a requirement of these rules to serve a document shall not apply or shall be effected in such manner as the court directs.

(2) Subject to the requirement in rule 4.7(1)(b) of personal service where service of a document is required under this Part it may be effected—

- (a) if the person to be served is not known by the person serving to be acting by solicitor—
 - (i) by delivering it to him personally, or
 - (ii) by delivering it at, or by sending it by first class post to his residence or his last known residence, or
- (b) if the person to be served is known by the person serving to be acting by solicitor—
 - (i) by delivering the document at, or sending it by first class post to, the solicitor's address for service,
 - (ii) where the solicitor's address for service includes a numbered box at a document exchange, by leaving the document at that document exchange or at a document exchange which transmits documents on every business day to that document exchange, or
 - (iii) by sending a legible copy of the document by FAX (as defined by R.S.C. Order 1 rule 3(1)) in accordance with the provisions of R.S.C. Order 65 rule 5(2A) to the solicitor's office.

(3) Where a child who is a party to proceedings to which this Part applies is required by these rules to serve a document, service shall be effected by—

- (a) the solicitor acting for the child, or
- (b) where there is no such solicitor, the guardian ad litem, or
- (c) where there is neither such a solicitor nor a guardian ad litem, the court.

(4) Service of any document on a child shall, subject to any direction of the court, be effected by service on—

- (a) the solicitor acting for the child, or
- (b) where there is no such solicitor, the guardian ad litem, or
- (c) where there is neither such a solicitor nor a guardian ad litem, with leave of the court, the child.

(5) Where the court refuses leave under paragraph (3)(c) it shall give a direction under paragraph (1).

(6) A document shall, unless the contrary is proved, be deemed to have been served—

- (a) in the case of service by first class post, on the second business day after posting, and
- (b) in the case of service in accordance with paragraph (2)(b)(ii), on the second business day after the day on which it is left at the document exchange.

(7) At or before the first directions appointment in, or hearing of, proceedings to which this Part applies the applicant shall file a statement that service of—

- (a) a copy of the application and other documents referred to in rule 4.5(1)(b) has been effected on each respondent, and
- (b) notice of the proceedings has been given under rule 4.5(4);

and the statement shall indicate—

- (i) the manner, date, time and place of service, or
- (ii) where service was effected by post, the date, time and place of posting.

(8) In this rule “first class post” means first class post which has been pre-paid or in respect of which pre-payment is not required.

Answer to application

4.10.—(1) Within 14 days of service of an application for an Article 8 order or an application under Schedule 1, each respondent shall file and serve on the other parties an acknowledgement of the application in Form C4.

(2) Following service of an application to which this Part applies, other than an application under rule 4.4 or for an Article 8 order, a respondent may, subject to paragraph (3) file a written answer, which shall be served on the other parties.

(3) An answer under paragraph (2) shall, except in the case of an application under Articles 44, 50, 53, 57, 62, 63, 64, 67 and 69 be filed and served, not less than 2 days before the date fixed for the hearing of the application.

Appointment of guardian ad litem

4.11.—(1) As soon as practicable after the commencement of specified proceedings, or the transfer of such proceedings to the court, the court shall appoint a guardian ad litem, unless—

- (a) such an appointment has already been made by the court which made the transfer and is subsisting, or
- (b) the court considers that such an appointment is not necessary to safeguard the interests of the child.

(2) At any stage in specified proceedings a party may apply, without notice to the other parties unless the court directs otherwise, for the appointment of a guardian ad litem.

(3) The court shall grant an application under paragraph (2) unless it considers such an appointment not to be necessary to safeguard the interests of the child, in which case it shall give its reasons; and a note of such reasons shall be taken.

(4) At any stage in specified proceedings the court may, of its own motion, appoint a guardian ad litem.

(5) The proper officer or chief clerk shall, as soon as practicable, notify the parties and any welfare officer of an appointment under this rule or, as the case may be, of a decision not to make such an appointment.

(6) Upon the appointment of a guardian ad litem the proper officer or chief clerk shall, as soon as practicable, notify him of the appointment and serve on him copies of the application and of documents filed under rule 4.18(1).

(7) A guardian ad litem appointed from a panel established by regulations made under Article 60(7) shall not—

- (a) be a member, officer or servant of a Board or Trust which, or an authorised person (within the meaning of Article 49(2)) who, is a party to the proceedings;
- (b) be, or have been, a member, officer or servant of a Board or Trust or voluntary organisation (within the meaning of Article 74(1)) who has been directly concerned in that capacity in arrangements relating to the care, accommodation or welfare of the child during the 5 years prior to the commencement of the proceedings;
- (c) be a serving probation officer (except that a probation officer who has not in that capacity been previously concerned with the child or his family and who is employed part-time may, when not engaged in his duties as a probation officer, act as a guardian ad litem).

(8) When appointing a guardian ad litem the court may give consideration to appointing anyone who has previously acted as guardian ad litem of the same child.

(9) The appointment of a guardian ad litem under this rule shall continue for such time as is specified in the appointment or until terminated by the court.

(10) When terminating an appointment in accordance with paragraph (9), the court shall give its reasons in writing for doing so.

(11) Where the court appoints a guardian ad litem in accordance with this rule or refuses to make such an appointment or terminates an appointment the court shall record the appointment refusal or termination in Form C41.

Powers and duties of guardian ad litem

4.12.—(1) In carrying out his duty under Article 60(2), the guardian ad litem shall have regard to the principle set out in Article 3(2) and the matters set out in Article 3(3)(a) to (f) as if for the word “court” in that section there were substituted the words “guardian ad litem”.

(2) The guardian ad litem shall—

- (a) appoint a solicitor to represent the child unless such a solicitor has already been appointed, and
- (b) give such advice to the child as is appropriate having regard to his understanding and, subject to rule 4.13(1)(a), instruct the solicitor representing the child on all matters relevant to the interests of the child, including possibilities for appeal, arising in the course of the proceedings.

(3) Where the guardian ad litem is the Official Solicitor, paragraph 2(a) shall not require him to appoint a solicitor for the child if he intends to act as the child’s solicitor in the proceedings, unless—

- (a) the child wishes to instruct a solicitor direct; and
- (b) the Official Solicitor or the court considers that he is of sufficient understanding to do so.

(4) Where it appears to the guardian ad litem that the child—

- (a) is instructing his solicitor direct, or
- (b) intends to, and is capable of, conducting the proceedings on his own behalf,

he shall so inform the court and thereafter—

- (i) shall perform all of his duties set out in this rule, other than duties under paragraph (2)(a) and such other duties as the court may direct,
- (ii) shall take such part in the proceedings as the court may direct, and
- (iii) may, with leave of the court, have legal representation in his conduct of those duties.

(5) The guardian ad litem shall, unless excused by the court, attend all directions appointments in and hearings of the proceedings and shall advise the court on the following matters—

- (a) whether the child is of sufficient understanding for any purpose including the child’s refusal to submit to a medical or psychiatric examination or other assessment that the court has power to require, direct or order;
- (b) the wishes of the child in respect of any matter relevant to the proceedings, including his attendance at court;
- (c) the appropriate forum for the proceedings;
- (d) the appropriate timing of the proceedings or any part of them;
- (e) the options available to it in respect of the child and the suitability of each such option including what order should be made in determining the application;

- (f) any other matter concerning which the court seeks his advice or concerning which he considers that the court should be informed.
- (6) The advice given under paragraph (5) may, subject to any order of the court, be given orally or in writing; and if the advice be given orally, a note of it shall be taken.
- (7) The guardian ad litem shall, where practicable, notify any person whose joinder as a party to those proceedings would be likely, in the guardian ad litem's opinion, to safeguard the interests of the child, of that person's right to apply to be joined under rule 4.8(2) and shall inform the court—
 - (a) of any such notification given,
 - (b) of anyone whom he attempted to notify under this paragraph but was unable to contact, and
 - (c) of anyone whom he believes may wish to be joined to the proceedings.
- (8) The guardian ad litem shall, unless the court otherwise directs, not less than 7 days before the date fixed for the final hearing of the proceedings, file a written report advising on the interests of the child; and the proper officer or chief clerk shall, as soon as practicable, serve a copy of the report on the parties.
- (9) The guardian ad litem shall serve and accept service of documents on behalf of the child in accordance with rule 4.9(2)(b) and (3)(b) and, where the child has not himself been served, and has sufficient understanding, advise the child of the contents of any document so served.
- (10) The guardian ad litem shall make such investigations as may be necessary for him to carry out his duties and shall, in particular—
 - (a) contact or seek to interview such persons as he thinks appropriate or as the court directs,
 - (b) if he inspects records of the kinds referred to in Article 61, bring to the attention of the court and such other persons as the court may direct all such records and documents which may, in his opinion, assist in the proper determination of the proceedings, and
 - (c) obtain such professional assistance as is available to him which he thinks appropriate or which the court directs him to obtain.
- (11) In addition to his duties under other paragraphs of this rule, the guardian ad litem shall provide to the court such other assistance as it may require.
- (12) A party may question the guardian ad litem about oral or written advice tendered by him to the court under this rule.

Solicitor for child

4.13.—(1) A solicitor appointed under Article 60(3) or in accordance with rule 4.12(2)(a) shall represent the child—

- (a) in accordance with instructions received from the guardian ad litem (unless the solicitor considers, having taken into account the views of the guardian ad litem and any direction of the court under rule 4.12(4), that the child wishes to give instructions which conflict with those of the guardian ad litem and that he is able, having regard to his understanding, to give such instructions on his own behalf in which case he shall conduct the proceedings in accordance with instructions received from the child) or
 - (b) where no guardian ad litem has been appointed for the child and the condition in Article 60(4)(b) is satisfied, in accordance with instructions received from the child, or
 - (c) in default of instructions under (a) or (b), in furtherance of the best interests of the child.
- (2) A solicitor appointed under Article 60(3) or in accordance with rule 4.12(2)(a) shall serve and accept service of documents on behalf of the child in accordance with rule 4.9(2)(a) and (3)(a), and, where the child has not himself been served and has sufficient understanding, advise the child of the contents of any document so served.

(3) Where the child wishes an appointment of a solicitor under Article 60(3) or in accordance with rule 4.12(2)(a) to be terminated, he may apply to the court for an order terminating the appointment; and the solicitor and the guardian ad litem shall be given an opportunity to make representations.

(4) Where the guardian ad litem wishes an appointment of a solicitor under Article 60(3) to be terminated, he may apply to the court for an order terminating the appointment; and the solicitor and, if he is of sufficient understanding, the child, shall be given an opportunity to make representations.

(5) When terminating an appointment in accordance with paragraph (3) or (4), the court shall give its reasons for so doing, a note of which shall be taken.

(6) Where the court appoints a solicitor under Article 60(3) or refuses to make such an appointment or terminates an appointment, the court or the proper officer or chief clerk shall record the appointment refusal or termination in Form C42.

Welfare officer

4.14.—(1) Where the court has directed that a written report be made by a welfare officer, the report shall be filed at or by such time as the court directs or, in the absence of such a direction, at least 14 days before a relevant hearing; and the proper officer or chief clerk shall, as soon as practicable, serve a copy of the report on the parties and any guardian ad litem.

(2) In paragraph (1), a hearing is relevant if the proper officer or chief clerk has given the welfare officer notice that his report is to be considered at it.

(3) After the filing of a report by a welfare officer, the court may direct that the welfare officer attend any hearing at which the report is to be considered; and

- (a) except where such a direction is given at a hearing attended by the welfare officer, the proper officer or chief clerk shall inform the welfare officer of the direction; and
- (b) at the hearing at which the report is considered any party may question the welfare officer about his report.

(4) This rule is without prejudice to any power to give directions under rule 4.15.

Directions

4.15.—(1) In this rule, “party” includes the guardian ad litem and, where a request or a direction concerns a report under Article 4, the welfare officer.

(2) In proceedings to which this Part applies the court may, subject to paragraph (3), give, vary or revoke directions for the conduct of the proceedings, including—

- (a) the timetable for the proceedings;
- (b) varying the time within which or by which an act is required, by these rules or by other rules of court, to be done;
- (c) the attendance of the child;
- (d) the appointment of a guardian ad litem, whether under Article 60 or otherwise, or of a solicitor under Article 60(3);
- (e) the service of documents;
- (f) the submission of evidence including experts' reports;
- (g) the preparation of welfare reports under Article 4;
- (h) the transfer of the proceedings to another court;
- (i) consolidation with other proceedings.

(3) Directions under paragraph (2) may be given, varied or revoked either—

- (a) of the court's own motion having given the parties notice of its intention to do so and an opportunity to attend and be heard or to make written representations,
 - (b) on the written request in Form C2 of a party specifying the direction which is sought, filed and served on the other parties, or
 - (c) on the written request in Form C2 of a party specifying the direction which is sought, to which the other parties consent and which they or their representatives have signed.
- (4) In an urgent case the request under paragraph (3)(b) may, with the leave of the court, be made—
- (a) orally, or
 - (b) without notice to the parties, or
 - (c) both as in sub-paragraph (a) and as in sub-paragraph (b).
- (5) On receipt of a written request under paragraph (3)(b) the proper officer or chief clerk shall fix a date for the hearing of the request and give not less than 2 days' notice in Form C3 to the parties of the date so fixed.
- (6) On considering a request under paragraph (3)(c) the court shall either—
- (a) grant the request, whereupon the proper officer or chief clerk shall inform the parties of the decision, or
 - (b) direct that a date be fixed for the hearing of the request, whereupon the proper officer or chief clerk shall fix such a date and give not less than 2 days' notice in Form C3 to the parties of the date so fixed.
- (7) A party may apply in accordance with paragraph 3(b) or (c) for an order to be made under Article 11(3) or, if he is entitled to apply for such an order, under Article 57(1) and paragraphs (4), (5) and (6) shall apply accordingly.
- (8) Where a court is considering making, of its own motion, an Article 8 order, or an order under Article 50, 53 or 57, the power to give directions under paragraph (2) shall apply.
- (9) Directions of a court which are still in force immediately prior to the transfer of proceedings to which this Part applies to another court shall continue to apply following the transfer, subject to any changes of terminology which are required to apply those directions to the court to which the proceedings are transferred, unless varied or discharged by directions under paragraph (2).
- (10) The court shall take a note of the giving, variation or revocation of a direction under this rule and serve, as soon as practicable, a copy of the note on any party who was not present at the giving, variation or revocation.

Timing of proceedings

4.16.—(1) Where these rules or other rules of court provide a time period within which or by which a certain act is to be performed in the course of proceedings to which this Part applies, that period may not be extended otherwise than by direction of the court under rule 4.15.

- (2) At the—
- (a) postponement or adjournment of any hearing or directions appointment in the course of proceedings to which this Part applies, or
 - (b) conclusion of any such hearing or directions appointment other than one at which the proceedings are determined, or so soon thereafter as is practicable, the court shall fix a date upon which the proceedings shall come before the court again for such purposes as the court directs; and the proper officer or chief clerk shall give notice to the parties, and to any guardian ad litem or welfare officer of the date fixed.

(3) At the transfer to a court of proceedings to which this Part applies the court to which the proceedings are transferred shall as soon as possible fix a date upon which the proceedings shall come before the court for such purposes as the court directs; and the proper officer or chief clerk shall give notice to the parties and to any guardian ad litem or welfare officer of the date so fixed.

Attendance at a directions appointment and hearing

4.17.—(1) Subject to paragraph (2), a party shall attend a directions appointment of which he has been given notice in accordance with rule 4.15(5) unless the court otherwise directs.

(2) Proceedings or any part of them shall take place in the absence of any party, including the child, if—

- (a) the court considers it in the interests of the child, having regard to the matters to be discussed or the evidence likely to be given, and
- (b) the party is represented by a guardian ad litem or solicitor;

and when considering the interests of the child under sub-paragraph (a) the court shall give the guardian ad litem, the solicitor for the child and, if he is of sufficient understanding, the child an opportunity to make representations.

(3) Subject to paragraph (4), where at the time and place appointed for a hearing or directions appointment the applicant appears but one or more of the respondents do not, the court may proceed with the hearing or appointment.

(4) The court shall not begin to hear an application in the absence of a respondent unless—

- (a) it is proved to the satisfaction of the court that he received reasonable notice of the date of the hearing; or
- (b) the court is satisfied that the circumstances of the case justify proceeding with the hearing.

(5) Where, at the time and place appointed for a hearing or directions appointment one or more of the respondents appear but the applicant does not, the court may refuse the application or, if sufficient evidence has previously been received, proceed in the absence of the applicant.

(6) Where at the time and place appointed for a hearing or directions appointment neither the applicant nor any respondent appears, the court may refuse the application.

Documentary evidence

4.18.—(1) Subject to paragraphs (4) and (5), in proceedings to which this Part applies a party shall file and serve on the parties, any welfare officer and any guardian ad litem of whose appointment he has been given notice under rule 4.11(5)—

- (a) written statements of the substance of the oral evidence which the party intends to adduce at a hearing of, or a directions appointment in, those proceedings, which shall—
 - (i) be dated,
 - (ii) be signed by the person making the statement,
 - (iii) contain a declaration that the maker of the statement believes it to be true and understands that it may be placed before the court; and
 - (iv) show in the top right-hand corner of the first page—
 - (a) the initials and surname of the person making the statement,
 - (b) the number of the statement in relation to the maker,
 - (c) the date on which the statement was made, and
 - (d) the party on whose behalf it is filed; and

(b) copies of any documents, including experts' reports, upon which the party intends to rely at a hearing of, or a directions appointment in, those proceedings, at or by such time as the court directs or, in the absence of a direction, before the hearing or appointment.

(2) A party may, subject to any direction of the court about the timing of statements under this rule, file and serve on the parties a statement which is supplementary to a statement served under paragraph (1).

(3) At a hearing or a directions appointment a party may not, without the leave of the court—

- (a) adduce evidence, or
- (b) seek to rely on a document,

in respect of which he has failed to comply with the requirements of paragraph (1).

(4) In proceedings for an Article 8 order a party shall—

- (a) neither file nor serve any document other than as required or authorised by these rules, and
- (b) in completing a form prescribed by these rules, neither give information, nor make a statement, which is not required or authorised by that form,

without the leave of the court.

(5) In proceedings for an Article 8 order no statement or copy may be filed under paragraph (1) until such time as the court directs.

Expert evidence — examination of child

4.19.—(1) No person may, without the leave of the court, cause the child to be medically or psychiatrically examined, or otherwise assessed, for the purpose of the preparation of expert evidence for use in the proceedings.

(2) An application for leave under paragraph (1) shall be made in Form C2 and shall, unless the court otherwise directs be served on all parties to the proceedings and on the guardian ad litem.

(3) Where the leave of the court has not been given under paragraph (1), no evidence arising out of an examination or assessment to which that paragraph applies may be adduced without the leave of the court.

Amendment

4.20.—(1) Subject to rule 4.18(2) a document which has been filed or served in proceedings to which this Part applies, may not be amended without the leave of the court which shall, unless the court otherwise directs, be requested in writing.

(2) On considering a request for leave to amend a document the court shall either—

- (a) grant the request, whereupon the proper officer or chief clerk shall inform the person making the request of that decision, or
- (b) invite the parties or any of them to make representations, within a specified period, as to whether such an order should be made.

(3) A person amending a document shall file it and serve it on those persons on whom it was served prior to amendment and the amendments shall be identified.

Hearing

4.21.—(1) The court may give directions as to the order of speeches and evidence at a hearing or directions appointment, in the course of proceedings to which this Part applies.

(2) Subject to directions under paragraph (1), at a hearing of, or directions appointment in, proceedings to which this Part applies, the parties and the guardian ad litem shall adduce their evidence in the following order—

- (a) the applicant,
- (b) any party with parental responsibility for the child,
- (c) other respondents,
- (d) the guardian ad litem,
- (e) the child, if he is a party to the proceedings and there is no guardian ad litem.

(3) After the final hearing of proceedings to which this Part applies, the court shall deliver its judgment as soon as is practicable.

(4) When making an order or when refusing an application, the court shall either—

- (a) issue a written judgment;
- (b) cause the judgment to be recorded by mechanical or electronic means; or
- (c) record in Form C19 any finding of fact which it made and the reasons for its decision.

(5) An order made in proceedings to which this Part applies shall be recorded either in the appropriate form in Appendix 1 to these rules or, where there is no such form, in writing.

(6) A copy of an order made in accordance with paragraph (5) shall, as soon as practicable after it has been made, be served by the proper officer or chief clerk on the parties to the proceedings in which it was made and on any person with whom the child is living.

Attachment of penal notice to Article 8 order

4.22. C.C.R. Order 57 rule 7 shall apply to Article 8 orders as if for paragraph (1) of that rule there were substituted the following—

“(1) In the case of an Article 8 order (within the meaning of Article 8(2) of the Children (Northern Ireland) Order 1995) enforceable by committal order under rule 5 the judge or the district judge may, on the application of the person entitled to enforce the order, direct the chief clerk to issue a copy of the order endorsed with a notice in Form 270 and the copy so endorsed shall be served on the respondent personally and no copy of the order shall be issued with any such notice endorsed save in accordance with such direction.”.

Appeals

4.23.—(1) Where an appeal lies—

- (a) to the High Court; or
- (b) to a county court specified in the Allocation Order for the purposes of Article 166(4)(a) of the Order of 1995 against the making or refusal to make an order under the Order of 1995—

it shall be made in accordance with the following provisions and references to “the court below” are references to the court from which the appeal lies.

(2) The appellant shall file and serve on the parties to the proceedings in the court below, and on any guardian ad litem—

- (a) notice of the appeal in writing, setting out the grounds upon which he relies;
- (b) a certified copy of the summons or application and of the order appealed against, and of any order staying its execution;
- (c) a copy of any reasons given for the decision.

- (3) The notice of appeal shall be filed and served in accordance with paragraph (2)(a)—
- (a) within 14 days after the determination against which the appeal is brought, or
 - (b) in the case of an appeal against an order under Article 57(1), within 7 days after the making of the order, or
 - (c) with the leave of the court to which the appeal is to be brought, within such other time as that court may direct.

(4) The documents mentioned in paragraph (2)(b) to (c) shall, subject to any direction of the court to which the appeal is to be brought, be filed and served as soon as practicable after the filing and service of the notice of appeal under paragraph (2)(a).

(5) The applicant shall also send a copy of the notice of appeal to the chief clerk or, as the case may be, to the clerk of petty sessions of the court below.

- (6) Subject to paragraph (7), a respondent who wishes—
- (a) to contend on the appeal that the decision of the court below should be varied, either in any event or in the event of the appeal being allowed in whole or in part, or
 - (b) to contend that the decision of the court below should be affirmed on grounds other than those relied upon by that court, or
 - (c) to contend by way of cross-appeal that the decision of the court below was wrong in whole or in part,

shall, within 14 days of receipt of notice of the appeal, file and serve on all other parties to the appeal a notice in writing, setting out the grounds upon which he relies.

(7) No notice under paragraph (5) may be filed or served in an appeal against an order under Article 57.

Confidentiality of documents

4.24.—(1) Notwithstanding any rule of court to the contrary, no document, other than a record of an order, held by the court and relating to proceedings to which this Part applies shall be disclosed, other than to—

- (a) a party,
- (b) the legal representative of a party,
- (c) the guardian ad litem,
- (d) the Legal Aid Department, or
- (e) a welfare officer

without leave of the judge.

(2) An application for leave shall be made in Form C2 setting out the reasons for the request.

(3) Nothing in this rule shall prevent the notification by the court or the proper officer or chief clerk of a direction under Article 56(1) to the authority concerned.

Notification of consent

4.25. Consent for the purposes of Article 16(3) or 33(3)(c) or (d) shall be given either—

- (a) orally in court, or
- (b) in writing to the court signed by the person giving his consent.

Secure accommodation

4.26. In proceedings under Article 44, the court shall, if practicable, arrange for copies of all written reports before it to be made available before the hearing to—

- (a) the applicant,
- (b) the parent or guardian of the child,
- (c) any legal representative of the child,
- (d) the guardian ad litem; and
- (e) the child, unless the court otherwise directs

and copies of such reports may, if the court considers it desirable, be shown to any person who is entitled to notice of the proceedings in accordance with these rules.

Investigation under Article 56

4.27.—(1) This rule applies where a direction is given to an appropriate authority by the High Court or a county court under Article 56(1).

(2) On giving a direction the court shall adjourn the proceedings and shall record the direction in Form C35.

(3) A copy of the direction recorded under paragraph (2) shall, as soon as practicable after the direction is given, be served by the proper officer or chief clerk on the parties to the proceedings in which the direction is given and, where the appropriate authority is not a party, on that authority.

(4) When serving the copy of the direction on the appropriate authority the proper officer or chief clerk shall also serve copies of such of the documentary evidence which has been, or is to be, adduced in the proceedings as the court may direct.

(5) Where an authority informs the court of any of the matters set out in Article 56(3)(a) to (c) it shall do so in writing.