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STATUTORY INSTRUMENTS

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**1994 No. 2165**

**The Family Proceedings (Amendment) (No. 2) Rules 1994**

4. After Part IV there shall be inserted the following:—

**“PART IVA**

**PROCEEDINGS UNDER SECTION 30 OF THE HUMAN  
FERTILISATION AND EMBRYOLOGY ACT 1990.**

**Interpretation**

**4A.1.**—(1) In this Part of these Rules—

“the 1990 Act” means the Human Fertilisation and Embryology Act 1990;

“the birth father” means the father of the child, including a person who is treated as being the father of the child by section 28 of the 1990 Act where he is not the husband within the meaning of section 30 of the 1990 Act;

“the birth mother” means the woman who carried the child;

“the birth parents” means the birth mother and the birth father;

“the guardian ad litem” means the guardian appointed in accordance with rule 4A.5;

“the husband and wife” means the persons who may apply for a parental order where the conditions set out in section 30(1) of the 1990 Act are met;

“parental order” means an order under section 30 of the 1990 Act (parental orders in favour of gamete donors) providing for a child to be treated in law as a child of the parties to a marriage.

(2) Applications under section 30 of the 1990 Act are specified proceedings for the purposes of section 41 of the Children Act 1989(1) in accordance with section 41(6)(i) of that Act.

**Application of Part IV**

**4A.2** Subject to the provisions of this Part, the provisions of Part IV of these Rules shall apply as appropriate with any necessary modifications to proceedings under this Part except that rules 4.7(1), 4.9, 4.10(1)(b), 4.10(11), 4.11(2), 4.11(3) and 4.12 shall not apply.

**Parties**

**4A.3** The applicants shall be the husband and wife and the respondents shall be the persons set out in the relevant entry in column (iii) of Appendix 3.

## **Answer**

**4A.4** Within 14 days of the service of an application for a parental order, each respondent shall file and serve on all the other parties an answer in Form CHA75.

## **Appointment and duties of the guardian ad litem**

**4A.5.**—(1) As soon as practicable after the application has been filed the court shall consider the appointment of a guardian ad litem in accordance with section 41(1) of the Children Act 1989.

(2) In the High Court the Official Solicitor shall, if he consents, be appointed as the guardian ad litem of the child.

(3) In a county court and in the High Court where the Official Solicitor does not consent to act as guardian ad litem, the guardian ad litem shall be appointed from a panel established under the Guardians Ad Litem and Reporting Officers (Panels) Regulations 1991(2).

(4) In addition to such of the matters set out in rule 4.11 as are appropriate to the proceedings, the guardian ad litem shall—

- (i) investigate the matters set out in section 30(1) to (7) of the 1990 Act;
- (ii) so far as he considers necessary, investigate any matter contained in the application form or other matter which appears relevant to the making of a parental order;
- (iii) advise the court on whether there is any reason under section 6 of the Adoption Act 1976(3), as applied with modifications by the Parental Orders (Human Fertilisation and Embryology) Regulations 1994(4), to refuse the parental order.

## **Personal attendance of applicants**

**4A.6** The court shall not make a parental order except upon the personal attendance before it of the applicants.

## **Copies of orders**

**4A.7.**—(1) Where a parental order is made by a court sitting in Wales in respect of a child who was born in Wales and the applicants so request before the order is drawn up, the proper officer shall obtain a translation into Welsh of the particulars set out in the order.

(2) Within 7 days after the making of a parental order, the proper officer shall send a copy of the order to the Registrar General(5).

(3) A copy of any parental order may be supplied to the Registrar General at his request.

## **Amendment and revocation of orders**

**4A.8.**—(1) An application under paragraph 4 of Schedule 1 to the Adoption Act 1976 as modified by the Parental Orders (Human Fertilisation and Embryology) Regulations 1994 for the amendment of a parental order or the revocation of a direction to the Registrar

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(2) S.I.1991/2051.

(3) 1976 c. 36.

(4) S.I. 1994/.

(5) By the Registration Service Act 1953 (c. 37), section 1, the powers and duties conferred or imposed by or under any enactment on the Registrar General are to be exercised and performed by the Registrar General for England and Wales appointed under that section.

General(6) may be made ex parte in the first instance but the court may require notice of the application to be served on such persons as it thinks fit.

(2) Where the application is granted, the proper officer shall send to the Registrar General a notice specifying the amendments or informing him of the revocation and shall give sufficient particulars of the order to enable the Registrar General to identify the case.

#### **Custody, inspection and disclosure of documents and information**

**4A.9.**—(1) All documents relating to proceedings for a parental order shall, while they are in the custody of the court, be kept in a place of special security.

(2) Any person who obtains any information in the course of, or relating to proceedings for a parental order shall treat that information as confidential and shall only disclose it if—

- (a) the disclosure is necessary for the proper exercise of his duties, or
- (b) the information is requested—
  - (i) by a court or public authority (whether in Great Britain or not) having power to determine proceedings for a parental order and related matters, for the purpose of discharge of its duties in that behalf, or
  - (ii) by a person who is authorised in writing by the Secretary of State to obtain the information for the purposes of research.

#### **Application for removal, return etc. of child**

**4A.10.**—(1) An application under sections 27(1), 29(1) or 29(2) of the Adoption Act 1976 as applied with modifications by the Parental Orders (Human Fertilisation and Embryology) Regulations 1994 shall be made on notice in proceedings under section 30 of the 1990 Act.

(2) The proper officer shall serve a copy of the application and a notice of the date of the hearing on all the parties to the proceedings under section 30, on the guardian ad litem and on any other person or body, not being the child, as the court thinks fit.

(3) The court may at any time give directions as to the conduct of the application under this rule.”.

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(6) By section 50 of the Adoption Act 1976 (c. 36) as applied by S.I. 1994/ , a parental order may contain a direction to the Registrar General to make an entry in the Register of Births or the Parental Order Register.