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STATUTORY INSTRUMENTS

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**1994 No. 2165 (L.13)**

**FAMILY LAW  
SUPREME COURT OF ENGLAND AND WALES  
COUNTY COURTS**

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

*Made* - - - - *11th August 1994*  
*Laid before Parliament* *24th August 1994*  
*Coming into force* - - *1st November 1994*

We, the authority having power under section 40(1) of the Matrimonial and Family Proceedings Act 1984<sup>(1)</sup> to make rules of court for the purposes of family proceedings in the High Court and county courts, in the exercise of the powers conferred by the said section 40, and of all other powers enabling us in that behalf, hereby make the following rules:

1. These Rules may be cited as the Family Proceedings (Amendment) (No. 2) Rules 1994 and shall come into force on 1st November 1994.
2. The Family Proceedings Rules 1991<sup>(2)</sup> shall be amended in accordance with the following provisions of these Rules and, in those provisions, any reference to a rule, Part or Appendix by number alone shall be construed as a reference to the rule, Part or Appendix so numbered in the said Rules of 1991.
3. In the Arrangement of Rules there shall be inserted the following after Part IV:—

**“PART IVA.**

**PROCEEDINGS UNDER SECTION 30 OF THE HUMAN  
FERTILISATION AND EMBRYOLOGY ACT 1990<sup>(3)</sup>**

- 4A.1** Interpretation  
**4A.2** Application of Part IV  
**4A.3** Parties

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<sup>(1)</sup> 1984 c. 42. Section 40 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 18, paragraph 50.  
<sup>(2)</sup> S.I.1991/1247, amended by S.I. 1991/2113, 1992/456 and 2067, 1993/295 and 1994/808.  
<sup>(3)</sup> 1990 c. 37.

**4A.4** Answer

**4A.5** Appointment and duties of the guardian ad litem

**4A.6** Personal attendance of applicants

**4A.7** Copies of orders

**4A.8** Amendment and revocation of orders

**4A.9** Custody, inspection and disclosure of documents and information

**4A.10** Application for removal, return etc. of child”.

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<sup>(4)</sup> 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.

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(4) 1989 c. 41.

## **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<sup>(5)</sup>.

(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<sup>(6)</sup>, as applied with modifications by the Parental Orders (Human Fertilisation and Embryology) Regulations 1994<sup>(7)</sup>, 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<sup>(8)</sup>.

(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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(5) S.I. 1991/2051.

(6) 1976 c. 36.

(7) S.I. 1994/.

(8) 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(9) 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.”.

#### **5. In Appendix 1:—**

- (a) the following shall be inserted at the end of the list of forms at the beginning of the Appendix—

“CHA74 Application for a Parental Order  
 CHA75 Answer  
 CHA76 Parental Order  
 CHA77 Notice of Refusal of a Parental Order”;

- (b) after form CHA69(10), there shall be inserted Forms CHA74, CHA75, CHA76 and CHA77 as set out in the Schedule to these Rules.

#### **6. In Appendix 3(11):—**

- (a) there shall be inserted at the end of column (i) “section 30 of the Human Fertilisation and Embryology Act 1990”;

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(9) 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.

(10) Form CHA69 was inserted by S.I. 1991/2113.

(11) Appendix 3 was amended and the columns re-ordered by S.I. 1992/2067.

- (b) in the corresponding entry in column (ii) there shall be inserted the words “14 days”;
- (c) in the corresponding entry in column (iii) there shall be inserted the words “the birth parents (except where the applicants seek to dispense with their agreement under section 30(6) of the Human Fertilisation and Embryology Act 1990) and any other persons or body with parental responsibility for the child at the date of the application”;
- (d) in the corresponding entry in column (iv) there shall be inserted the words “any local authority or voluntary organisation that has at any time provided accommodation for the child”.

*Mackay of Clashfern, C.  
Stephen Brown, P.  
Mathew Thorpe, J.  
Marion Norrie  
Anne Downey  
Gerald Angel  
James Holman  
J. M. Appleby  
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Sandra Andrew  
M. B. Roddy*

Dated 11th August 1994

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SCHEDULE

Rule 4

Application for a Parental Order

Date received by court

Section 30 Human Fertilisation and Embryology Act 1990

- Please use black ink.
The Notes on page 4 of this form will tell you what to do when you have completed the form.
If there is more than one child you must fill in a separate form for each child.
Please answer every part. If a part does not apply or you do not know what to say please say so. If there is not enough room continue on another sheet (put the child's name and the number of the part on the sheet).
If you have any concerns about giving your address or that of the child or any other address requested in this form, you may give an alternative address where papers can be served. However, you must notify the court of the actual address on a separate form available from the court.

I apply to The Family Proceedings Court for a Parental Order

1 About the child

(a) The birth name of the child Put the surname last
(b) The child is a Boy Girl
(c) The child was born on Age now
(d) The address where the child was born
(e) The address where the child lives now
(f) The person(s) who have parental responsibility See the Notes on the last page.
(g) The name(s) of the child if a Parental Order is made Put the surname last

2 About the applicants

1st Applicant

(a) Your full name Put your surname last
(b) Are you over 18? Yes No
(c) Your occupation
(d) Are you a genetic parent of the child? Yes No
(e) Are you domiciled in the United Kingdom, Channel Islands or the Isle of Man? Yes No

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**2 About the applicants (continued)**

**2nd Applicant**

(a) Your full name

*Put your surname last*

(b) Are you over 18?

Yes  No

(c) Your occupation

(d) Are you a genetic parent of the child?

Yes  No

(e) Are you domiciled in the United Kingdom, Channel Islands or the Isle of Man?

Yes  No

**Both Applicants**

Your address is

**3 About the birth parents** *See the notes on the last page.*

**The birth mother**

(a) Her full name

*Put her surname last*

(b) Her full address

**The birth father (if any)**

(c) His full name

*Put his surname last*

(d) His full address

**4 Parental agreement**

(a) Does the birth mother agree to a Parental Order being made?

Yes  No

(b) Does the birth father (if applicable) agree to a Parental Order being made?

Yes  No

- The agreement of the birth mother and birth father (where appropriate) is required, or must be dispensed with under one of the grounds at 4(d) on page 3, before an order can be made.
- The child must be at least 6 weeks old when the agreement is given

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**4 Parental agreement (continued)**

- (c) Will you be asking the court to dispense with the agreement of a birth parent?  Yes  No

**If Yes**  
give the name(s) of the birth parent(s) whose agreement you wish to dispense with.

- (d) The grounds for dispensing with the agreement are  the person(s) cannot be found  
 *one box*  the person(s) are incapable of giving agreement

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**5 General Information**

- (a) Has the child ever been looked after by a local authority or voluntary organisation?  Yes  No

**If Yes**  
• give the period during which this organisation has looked after the child  
• give details of the organisation

- (b) Have there been, or are there, any other court proceedings pending or in progress which concern this child?  Yes  No

**If Yes**  
give details of the proceedings  
*Give the name of the court and the case number of the proceedings, if known*

- (c) Have there been, or are there, any court proceedings pending or in progress which concern any other children of the applicants' family?  Yes  No

**If Yes**  
give details of the proceedings  
*Give the name of the court and the case number of the proceedings, if known*



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**5 General Information (continued)**

(d) Is there a licensed treatment centre?  Yes  No

If Yes  
give the name, address and  
any reference of the  
treatment centre.

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**6 The respondents**

- The respondent(s) will be
- all those with parental responsibility (see the notes on page 8)
  - If the child is the subject of a care order, all those who had parental responsibility for the child immediately before the care order was made
  - other persons allowed by the Rules of Court

- You need not give details of the birth parent(s)
- Please put the address where the respondent usually lives or can be served with papers
- You will have to serve a copy of this application on each of the respondents (including the birth parent(s))

The name of the respondent	The respondent's address

**7 Declaration**

We declare that

- ▶ we are married to each other and our marriage certificate is attached
- ▶ that no money or other benefit (other than for expenses reasonably incurred) has been received or given by the applicants for or in consideration of the matters set out in section 30(7) of the Human Fertilisation and Embryology Act 1990
- ▶ a copy of the child's birth certificate is attached
- ▶ the information we have given is correct and complete to the best of our knowledge.

Signed	1st Applicant	<input style="width: 95%;" type="text"/>	Date	<input style="width: 95%;" type="text"/>
Signed	2nd Applicant	<input style="width: 95%;" type="text"/>	Date	<input style="width: 95%;" type="text"/>

**What you (the person applying) must do next**

- ▶ Fill in Parts 1 and 2 of the Notice of Hearing.
- ▶ Take or send this form to the court with a copy for service on each of the respondent(s) listed in Parts 3 and 6. The top copy will be kept by the court. The other copies will be given or sent back to you.
- ▶ You must serve the form of Answer (Form C11A 75), and a copy of this Application, the Notice of Hearing and the Notes, on each respondent and birth parent according to the Rules. You may also be required to send a copy of the Notice of Hearing and the Notes to other people.



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*The court will complete this page.*

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**3 About the Hearing**

The application will be heard before the [Judge] [Justice(s)]

at

on

at

o'clock

- ▶ If you are not the applicant, you may attend the hearing if you would like to do so  
or the court notifies you that your attendance is necessary.
  
- ▶ If you would like to be heard on the question of whether a Parental Order should be made, you should write and tell the court on or before

The court can then arrange a time for you to attend court.

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**4 Dispensing with the agreement**

*Note:  
This paragraph should be deleted unless the applicants are applying to dispense with the agreement of the birth parent(s).*

The court has been requested to dispense with the agreement of the birth parent(s) to the making of a Parental Order on the ground(s) that:

- (a) The person(s) cannot be found.
  
- (b) The person(s) [is] [are] incapable of giving agreement.

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Signed

An officer of the court

Date

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### What you must do

- ▶ If there is a copy of the application with this Notice, read it now.  
You do not have to fill in any part.
  
- ▶ You must complete the form of Answer, if it is enclosed, and follow the instructions about service on the first page of that form.
  
- ▶ You should consider getting legal advice from a solicitor or from an advice agency.  
The Law Society administers a national panel of solicitors to represent children and other parties involved in proceedings relating to children.  
Addresses of solicitors (including panel members) and advice agencies can be obtained from the Yellow Pages and the Solicitors Regional Directory. These can be found at
  - Citizens Advice Bureaux
  - Law Centres
  - any local library.

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If you write to the court please address your letters to "The Chief Clerk"  
and quote the No. of the matter at the top of this form.  
The Court office is at

The office is open from      am to      pm on Monday to Friday.

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## Notes about parental responsibility and birth parents

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### *Parental Responsibility*

Some people have “parental responsibility” for a child. The law says what “parental responsibility” is and which people have it. These people include:

- |   |   |
|---|---|
| <b>A</b> the birth mother   | <b>D</b> a guardian of the child                            |
| <b>B</b> the birth father<br>if he was married to the child’s birth mother<br>when the child was born   | <b>E</b> someone who holds a custody or<br>residence order  |
| <b>C</b> the birth father<br>if he was <b>not</b> married to the child’s<br>birth mother when the child was born<br>but he now has a residence order<br>or he now has a court order<br>which gives him parental<br>responsibility<br>or he now has a formal “parental<br>responsibility agreement” with<br>the birth mother<br>or he has since married the birth mother | <b>F</b> a local authority which has a care<br>order        |
|   | <b>G</b> someone who holds an emergency<br>protection order |
|   | <b>H</b> any man or woman who has adopted<br>the child      |

### *Birth Parents*

**The birth mother** is the woman who carried the child.

- The birth father** is ► the husband of a birth mother whether or not he is the genetic father of the child. This does not apply if it can be shown that the husband did not consent to her treatment.
- the man (whether or not he is the genetic father of the child) with whom a birth mother received treatment at a licensed treatment centre if
- (a) the birth mother is unmarried  
or (b) the birth mother is married but her husband did not consent to the treatment.
- **There will be no birth father** when a birth mother is unmarried and is treated alone.

#### **Notice**

If you are not sure who the birth father is, the licensed treatment centre will be able to advise you.

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In the

[High Court of Justice]  
[County Court]  
[Family Proceedings Court]

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**Answer**

Section 30 Human Fertilisation and Embryology Act 1990

Case No.

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*To the applicant: You will need a copy of this form for each respondent and birth parent.  
On each copy you must put in the boxes:  
the name and address of each respondent or birth parent, and the name of the child.*

Respondent's name and address:

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**To the respondent**

The birth name of the child  
*Put the surname last*

- You will get with this form a copy of
- ▶ a Notice of Hearing
  - ▶ an application that has been made to the court

- Please
- ▶ read the Notice first
  - ▶ then read the application
  - ▶ answer the questions on the other side of this form

- You must**
- ▶ return only the attached Answer to the court at the address below
  - ▶ serve a copy of the Answer on the applicant, birth parent(s) and each respondent (see parts 2, 3 and 6 of the application form) **within 14 days** from the date you were given the Notice of Hearing **or** of the post mark on the envelope, if the Notice was posted to you.

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*To the court: insert the name and address of your court*

The court office is open from      am to      pm on Monday to Friday.

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**Answer**

Case No.  

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**1** (a) Your name  
*Put your surname last*

(b) Your address

(c) When did you receive this form?  
*Put the full date*

---

**2** Do you wish to oppose the application?  Yes  No

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**3** Do you wish to be heard on the question as to whether a Parental Order should be made?  
*(see Part 3 of the Notice of Hearing)*  Yes  No

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**4** **If you have a solicitor**  
If you would like letters or other papers sent to your solicitor, put your solicitor's name and address in the box.

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**5** **I declare** that the information I have given is true and correct to the best of my knowledge.

Signed  Date

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In the  
at

[High Court of Justice]  
[County Court]  
[Family Proceedings Court]

**Parental Order**

Section 30 Human Fertilisation and Embryology Act 1990

Case No. [REDACTED]

**1** (a) The child is

*Give the birth name and name by which the child is to be known (if different).*

Sex

Date of birth

Address where born

Full names of birth parent(s)

(b) The applicants are

1st applicant

Name

Occupation

Place of birth

2nd applicant

Name

Occupation

Place of birth

(c) The address of the applicants



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**2** The court grants a Parental Order to the applicants

[The Court has ordered the costs as follows:]

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**3** The child is to be known by the following names:

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**4** The court has directed the Registrar General  
to enter the details set out in this order in the Parental Order Register in accordance with  
Regulations under paragraph 1 of Schedule 1 to the Adoption Act 1976 as modified by the  
Parental (Human Fertilisation and Embryology) Regulations 1994.  
**and** to insert the words "Re-registered by the Registrar General" against the entry in the Register  
of Births.

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Ordered by [Mr] [Mrs] Justice  
{His}[Her] Honour Judge  
A District Judge [of the Family Division ]  
Justice(s) of the Peace  
Clerk of the Court

on

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In the  
at

[High Court of Justice]  
[County Court]  
[Family Proceedings Court]

**Notice of refusal of a Parental Order**

Section 30 Human Fertilisation and Embryology Act 1990

Case No. [Redacted]

*Keep this Notice for future reference*

**1 About the child**

(a) The birth name of the child  
*Put the surname last*

(b) The child is a

Boy  Girl

(c) The child was born on

day	month	year	Age now
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**2 About the applicants**

(a) The full names 1st applicant  
*Put the surname last*

2nd applicant

(b) The order was made on

**3 Take Notice that** a Parental Order has been refused in respect of the child.

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## EXPLANATORY NOTE

*(This note is not part of the Rules)*

Section 30 of the Human Fertilisation and Embryology Act 1990 (c. 37) confers power upon the court to make a parental order in respect of a child in favour of a married couple, at least one of whom is the genetic parent and where the child has been born as a result of a surrogacy arrangement satisfying certain conditions. These Rules amend the Family Proceedings Rules 1991 and prescribe the procedure to be followed in connection with applications for such an order in the High Court and county courts. They also prescribe the procedure for making an application under sections 27(1) (leave to apply for removal of a child from the home of a person with whom he lives), 29(1) (order for the return of a child who has been removed from the home of a person with whom he lives) and 29(2) (order directing a person not to remove the child from the home of a person with whom he lives) of the Adoption Act 1976 as applied with modifications by the Parental Orders (Human Fertilisation and Embryology) Regulations 1994.