

2010 No. 115

COUNTY COURTS

The County Court (Amendment) Rules (Northern Ireland) 2010

Made - - - - - *16th March 2010*

Coming into operation - - - - - *9th April 2010*

The County Court Rules Committee makes the following Rules in exercise of the powers conferred by Article 47 of the County Courts (Northern Ireland) Order 1980(a).

1. Citation and commencement

2. These Rules may be cited as the County Court (Amendment) Rules (Northern Ireland) 2010 and come into operation on 9th April 2010.

3. In these Rules, a reference to an Order, rule, Appendix or Form is a reference to that Order, rule, Appendix or Form so numbered in the County Court Rules (Northern Ireland) 1981(b) (“the principal Rules”).

4. Amendments

5. In Order 50A of the principal Rules—

- (a) in the heading for “30” substitute “54” and for “1990” substitute “2008”;
- (b) for rule 1(1) substitute—

6. “Interpretation

1.—(1) In this Order unless the context otherwise requires—

“the 1990 Act” means the Human Fertilisation and Embryology Act 1990(c) and expressions which are defined in the 1990 Act have the same meaning as in that Act;

“the 2008 Act” means the Human Fertilisation and Embryology Act 2008(d) and expressions which are defined in the 2008 Act have the same meaning as in that Act;

“the 1987 Order” means the Adoption (Northern Ireland) Order 1987(e) and expressions which are defined in the 1987 Order have the same meaning as in that Order;

“chief clerk” means the chief clerk for the county court division in which the application is being made;

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

(a) S.I. 1980/397 (N.I.3) to which the most recent relevant amendment was made by the Constitutional Reform Act 2005 (c.4)
(b) S.R. 1981 No. 225 to which the most recent amendment was made by S.R.2009 No. 176
(c) 1990 c.37
(d) 2008 c.22
(e) S.I. 1987/2203 (N.I.22)

“the other parent” means any person, other than the birth mother, who is a parent of the child but is not one of the petitioners and includes any man who is the father by virtue of section 35 of the 2008 Act or any woman who is a parent by virtue of section 42 or 43 of the 2008 Act;

“the birth parents” means the birth mother and the other parent.”

- (a) in rule 2(2) for “husband and wife” substitute “the persons who may apply for a parental order pursuant to section 54 of the 2008 Act”;
- (b) in rule 4(1)(a) for “section 30(1) to (7) of the 1990 Act” substitute “section 54(1) to (8) of the 2008 Act”.

7. In Order 52 of the principal rules, after rule 26 insert—

“PART IX EXTRADITION ACT 2003

8. Interpretation

27. In this Part—

- (a) “the Act” means the Extradition Act 2003(a);
- (b) a section referred to by number means the section so numbered in the Act; and
- (c) expressions which are defined in the Act have the same meaning in this Part as they have in the Act.

9. Application for live link direction

28.—(1) An application for a live link direction under section 206A of the Act shall be made by giving notice in Form 400.

(2) An application under paragraph (1) shall be made not less than 7 days before the day fixed for the hearing to which the application relates.

(3) The applicant shall serve a copy of the notice under paragraph (1) on—

- (a) the chief clerk, and
- (b) every other party to the proceedings.

(4) Any party who wishes to oppose the application shall, within 3 days of the date that the notice under paragraph (1) was served on him, notify the applicant and the chief clerk, in writing, of the grounds for the objection.

(5) Except where an objection is received in accordance with paragraph (4), the court may—

- (a) determine the application in favour of the applicant without a hearing; or
- (b) direct a hearing.

(6) Where a party to the proceedings notifies the chief clerk in accordance with paragraph (4) of his opposition to the application, the chief clerk shall fix a date for the hearing of the application.

(7) Where a hearing is to take place in accordance with paragraphs (5) or (6), the chief clerk shall notify each party to the proceedings of the time and place of hearing.

(8) A party notified in accordance with paragraph (7) may be present at the hearing and may make representations in respect of the application.

(a) 2003 c.41 to which the most recent relevant amendments were made by section 78 of the Policing and Crime Act 2009 (c.26)

(9) The chief clerk shall, as soon as reasonably practicable after the determination of an application under paragraph (1), notify all the parties of the decision in Form 401.

(10) The court may if it considers it is in the interest of justice to do so, allow an application required under this rule to be given in a different form, or orally.

10. Application for rescission of a direction

29.—(1) An application under section 206B of the Act to rescind a live link shall be made in writing and shall give reasons why the direction should be rescinded.

(2) An application under paragraph (1) shall be served on the chief clerk and on each party to the proceedings as soon as reasonably practicable.

(3) Paragraphs (4) to (10) of rule 28 shall apply to an application to rescind a live link direction as they apply to an application for a live link direction.”.

11. In Appendix 1 to the principal Rules—

- (a) for Form 389 substitute Form 389 as set out in Schedule 1 to these Rules;
- (b) in Form 393, for “section 30 of the Human Fertilisation and Embryology Act 1990” substitute “section 54 of the Human Fertilisation and Embryology Act 2008” and omit the words “Parental Orders (Human Fertilisation and Embryology) Regulations 1994” ; and
- (c) after Form 399, insert new Forms 400 and 401 as set out in Schedule 2 to these Rules.

12. Savings

13. Order 50A of the principal Rules, as it applied before these Rules come into operation, shall continue to have effect in relation to any application under section 30 of the 1990 Act filed before these Rules come into operation.

The undersigned members of the County Court Rules Committee certify these Rules and submit them to the Lord Chancellor.

*T.A.Burgess
Philip Babington
Dorcas Crawford
Nigel McCombe
Barry Valentine
A E Wells
Nigel Elliott*

Dated 10th March 2010

In exercise of the powers conferred by Article 47(4) of the County Courts (Northern Ireland) Order 1980 and after consultation with the Lord Chief Justice, I allow these Rules which shall come into operation on 9th April 2010.

Signed by the authority of the Lord Chancellor.

Bridget Prentice
Parliamentary Under-Secretary of State
Ministry of Justice

Dated 16th March 2010

SCHEDULE 1

Rule 5(a)

“No. 389

Petition for a Parental Order

(O.50A, RULE 2)

No. of 20

IN THE COUNTY COURT/RECORDER’S COURT for the Division of

IN THE MATTER OF the Human Fertilisation and Embryology Act 2008

IN THE MATTER OF [] a child.

We, the undersigned and wishing to have a Parental Order made in respect of , a child, hereby give the following particulars in support of our application.

Part 1 – Particulars of the child

- (a) The birth name of the child
(b) The child is a boy a girl (please tick)
(c) The child was born on theday of.....20....
(d) The address where the child was born
(e) The address where the child lives now
(f) The parental rights and duties relating to the child are vested in
(g) The name(s) of the child if a Parental Order is made

Part 2 – Particulars of the petitioners

1st petitioner

- (a) Your full name
(b) Your occupation
(c) Are you a genetic parent of the child? Yes No (please tick)

2nd petitioner

- (a) Your full name
(b) Your occupation
(c) Are you a genetic parent of the child? Yes No (please tick)

Both applicants

Your address is

Part 3 – Particulars of birth parents

The birth mother

- (a) Full name
(b) Full address

The other parent (if applicable)

- (a) Full name
(b) Full address

Part 4 – Parental Agreement

- (a) Does the birth mother agree to a Parental Order being made?
Yes....No....(please tick)
- (b) Does the other parent, if applicable, agree to a Parental Order being made?
Yes....No....(please tick)

***The agreement of the birth mother and the other parent (where appropriate) is required, or must be dispensed with on one of the grounds in paragraph (d) below, before an order can be made.**

***The child must be at least six weeks old when the agreement is given.**

- (c) Will you be asking the court to dispense with the agreement of the birth mother and any other parent(s)?
Yes....No....(please tick)
If yes please give the name(s) of the parent(s) whose agreement you wish to dispense with
- (d) The grounds for dispensing with agreement are:
 - (i) The person(s) cannot be found
 - (ii) The person(s) are incapable of giving agreement.....
(please tick as appropriate)

Part 5 – General Information

- (a) Has the child ever been looked after by the Regional Board, HSC trust or voluntary organisation? Yes....No....(please tick)
If yes
 - (i) Give the period during which this organisation has looked after the child
 - (ii) Give details of the organisation
Name
 - Address
- (b) Have there been, or are there, any court proceedings pending or in progress which concern this child?
Yes....No....(please tick)
If yes, give details of the proceedings
- Name of court
- Case number of 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....(please tick)
If yes, give details of the proceedings
- Name of court
- Case number of proceedings (if known)
- (d) Did you attend a licensed treatment centre? Yes....No....(please tick)
If yes, give details

Part 6 – Particulars of Respondents

The respondent(s) will be:-

- (a) the birth parents (except where the petitioners seek to dispense with their consent)

Part 7 – Declaration

We the petitioners declare that:

- (a) we are married to each other and our marriage certificate is attached; or
we are civil partners and our civil partnership certificate is attached; or
we are living as partners in an enduring family relationship and are not within the prohibited degrees of relationship to each other,
- (b) the child's home is with us,
- (c) we are/one of us is/domiciled in a part of the United Kingdom or in the Channel Islands or

- the Isle of Man,
- (d) no money or benefit (other than for expenses reasonably incurred) has been received or given by us for or in consideration of the matters set out in section 54(6) of the Human Fertilisation and Embryology Act 2008,
 - (e) a copy of the child's birth certificate is attached, and
 - (f) the information which we have given in this form is correct and complete to the best of our knowledge.

Signed

1st petitionerdate.....
2nd petitionerdate.....

Notes

Part 7 Two people are within the prohibited degrees of relationship with each other if they share the following relationship: adoptive child; adoptive parent; child; former adoptive child; former adoptive parent; grandparent; grandchild; parent; parent's sibling; sibling (brother, sister, half-brother, half-sister), sibling's child.”

SCHEDULE 2

Rule 5(c)

“Form 400

Form of application of for a live link direction under section 206A of the Extradition Act 2003

ORDER 52: RULE 28(1)

To be completed by all applicants

Details required

Notes

Case details

ICOS reference number:

Requested Person’s surname:

Forename(s):

Requested Person’s date of birth:

Name of prison/place of custody:

Court venue:

The venue of the court hearing the case.

Date of next hearing:

Details of application

Specify the direction sought:

(whether live link direction is sought in respect of one or more hearings)

State the reasons for a live link direction:

(provide evidence that the requested person is likely to be in custody at time of the next hearing)

Give a description of evidence submitted in support of this application:

This requirement is optional.

Arrangements which may be available

Requested Person to appear by live link:
Provide a description of the arrangements relevant to the direction applied for, which may be made available in the prison/place of custody where the defendant is currently being held:

Dated this day of 20 .

Applicant

[Solicitor for Applicant]

To the Chief Clerk for the county court division of .

And to
(insert names and addresses of each of the other parties to the proceedings)

Note:

- An application for a live link direction under section 206A of the Extradition Act 2003 may be made in proceedings under:
 - **Part 1** of the Extradition Act 2003 (except the substantive extradition hearing or a hearing under section 54 (request for consent to other defence being dealt with) or section 56 (request for consent to further extradition to category 1 territory), and,
 - **Part 2** of the Extradition Act 2003 (*except the substantive extradition hearing*).
- An application for a live link direction must be made **not less than 7 days** before the date fixed for the commencement of proceedings to which the application relates.
- A copy of the application served on the chief clerk shall be endorsed with the date and the manner in which the application was served on each of the other parties to the proceedings.
- An applicant must provide the court with sufficient information to enable a live link to be facilitated, including the location of the requested person, and any technical information required by the court to connect to said location.

Note to party who has received a copy of this notice:

If you wish to object to this application you are required to notify the applicant and the chief clerk in writing of your opposition and stating the reasons for doing so **within 3 days** of receipt of the application.

Form 401

EXTRADITION ACT 2003
(SECTION 206A & 206B)

COUNTY COURTS (NORTHERN IRELAND) ORDER 1980
ORDER 52, RULE 28(9) and 29(3)

**Notice of decision for direction/recission of a direction* for a live link under
section 206A/206B* of the Extradition Act 2003**

of

Requesting Territory]
] Petty Sessions District of
]]
]]

of

Requested Person]
] County Court Division of
]]
]]

[An application having been made under section 206A/206B* of the Extradition Act 2003 for a live link direction/rescission of a direction]* the Court hereby directs:-

[The Court of its own motion directs:-]*

[The Court stated the reasons for refusing the application as follows:-]*

This day of 20 .

Chief Clerk.

* *delete as appropriate*

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the County Court Rules (Northern Ireland) 1981 (S.R. 1981 No. 225) to:

- prescribe the practice and procedure for applications for parental orders under the Human Fertilisation and Embryology Act 2008; and
- prescribe the practice and procedure for applications for a live link direction under section 206A and 206AB of the Extradition Act 2003.