

2008 No.

FAMILY PROCEEDINGS

SUPREME COURT

COUNTY COURTS

**The Family Proceedings (Amendment No. 3) Rules (Northern
Ireland) 2008**

<i>Made</i>	- - - -	2008
<i>Coming into operation</i>	-	2008
<i>To be laid before Parliament</i>		

The Family Proceedings Rules Committee makes the following Rules in exercise of the powers conferred by Article 12 of the Family Law (Northern Ireland) Order 1993(a):

Citation and commencement

1. These Rules may be cited as the Family Proceedings (Amendment No. 3) Rules (Northern Ireland) 2008 and shall come into operation on xxth Xxxxxxxx 2008.

Amendment to the Family Proceedings Rules (Northern Ireland) 1996

2. The Family Proceedings Rules (Northern Ireland) 1996(b) are amended as follows—
- (a) In rule 1.3, after ““the Act of 2004” means the Civil Partnership Act 2004;” insert—
““the Act of 2007” means the Forced Marriage (Civil Protection) Act 2007;”(c);
 - (b) In Part III, after rule 3.39, insert—

“Proceedings under the 2007 Act: Interpretation

3.40. In rules 3.41 to 3.46—

- (a) a “forced marriage protection order” means an order under paragraph 1 of Schedule 1 to the Act of 2007;
- (b) “the person who is the subject of the proceedings” means the person who will be protected by the forced marriage protection order applied for or being considered

(a) S.I. 1993/1576 (N.I. 6), Article 12 was amended by paragraph 90 of Schedule 5 to the Constitutional Reform Act 2005 (c.4).
(b) S.R. 1996 No. 322 to which the most recent amendments were made by S.R. 2007 No. 324, S.R. 2008 No. 24 and S.R. 2008 No. 259.
(c) c.20.

by the court of its own motion, if that order is made, or who is being protected by such an order.

Applications for forced marriage protection orders

3.41.—(1) An application for a forced marriage protection order, including an application for a forced marriage protection order which is made in other proceedings which are pending, shall be made in Form F10.

(2) An application for a forced marriage protection order shall be filed—

(i) in relation to an application to the High Court, in the Office of Care and Protection; or

(ii) in relation to an application to a county court, in the county court office.

(3) An application for a forced marriage protection order made by an organisation shall state—

(a) the name and address of the person submitting the application; and

(b) the position which that person holds in the organisation.

(4) Where an application is made without notice being given to the respondent it shall be supported by a statement, signed by the applicant and sworn to be true, explaining why notice is not being given.

Leave stage for applications for a forced marriage protection order

3.42.—(1) Where the leave of the court is required to apply for a forced marriage protection order, the person seeking leave shall file in the Office of Care and Protection or, as the case may be, the county court office—

(a) a written request for leave in Form F14 setting out—

(i) the reasons for the application;

(ii) the applicant's connection with the person who is the subject of the proceedings;

(iii) the applicant's knowledge of the circumstances of the person who is the subject to the proceedings; and

(iv) the applicant's knowledge of the wishes and feelings of the person who is the subject of the proceedings;

and

(b) a draft of the application for the making of which leave is sought, together with sufficient copies for one to be served on each respondent and the person who is the subject of the proceedings.

(2) As soon as practicable after receiving a request under paragraph (1), the court shall—

(a) grant the request, whereupon the court shall inform the person making the request, the respondent, the person who is the subject of the proceedings and any such other persons as the court requires to be notified of the decision; or

(b) direct that a date be fixed for the hearing of the request and fix the date,

and the proper officer or, as the case may be, chief clerk shall inform the following persons of the court's action under this paragraph—

(i) the person making the request,

(ii) the respondent,

(iii) (if different) the person to be protected, and

(iv) any other person directed by the court.

(3) Where leave is granted to bring proceedings the application shall proceed in accordance with rule 3.41.

Service of an application for a forced marriage protection order

3.43.—(1) Subject to paragraph (3), in every application made on notice the applicant shall arrange for a copy of the application, together with notice of any hearing or directions appointment set by the court in Form F11 to be served personally on—

- (a) the respondent,
- (b) the person who is the subject of the proceedings (if not the applicant), and
- (c) any other person directed by the court.

not less than 2 days before the date fixed for hearing.

(2) The court may abridge the period specified in paragraph (1).

(3) The applicant shall file a statement in Form F17 after the application has been served.

Parties to proceedings for a forced marriage protection order

3.44.—(1) In proceedings under the Act of 2007, a person may file in the Office of Care and Protection or, as the case may be, the county court office a request in Form F15 that he or another person—

- (a) be joined as a party, or
- (b) cease to be a party.

(2) As soon as practicable after receiving a request under paragraph (1), the court shall do one of the following—

- (a) in the case only of a request under paragraph 1(a), grant the request;
- (b) direct that a date be fixed for the hearing of the request and fix a date; or
- (c) invite written representations as to whether the request should be granted, to be filed within a specified period, and upon expiry of that period act under subparagraph (a) or (b) as it sees fit;

and the proper officer, or as the case may be, chief clerk shall inform the following persons of the court's action under this paragraph—

- (i) the person making the request,
- (ii) the applicant and the respondent,
- (iii) (if different) the person who is the subject of the proceedings, and
- (iv) any other person directed by the court.

(3) 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.

and such a direction may be made by the court of its own motion as well as upon a request under paragraph (1).

Hearing of applications for forced marriage protection orders

3.45.—(1) Unless the court otherwise directs, an application for a forced marriage protection order shall be heard by a judge in chambers.

(2) The judge shall make a record of the hearing in Form F12.

(3) The order made on the hearing shall be issued in Form F13.

(4) The applicant shall arrange for—

- (a) a copy of the order;
- (b) a copy of the record of the hearing; and

(c) where the order is made without the respondent having been given notice of the proceedings; a copy of the application together with any statement supporting it; to be served personally on the respondent, the person who is the subject of the proceedings (if not the applicant), and any other person named in the order soon as reasonably practical.

(5) Where the order has been made without the respondent having been given notice of the proceedings the proper officer or, as the case may be, the chief clerk shall give the respondent and the other parties at least 5 days notice, or such other period as the court may direct, of the date fixed for a full hearing.

(6) The court may direct that a further hearing be held to consider any representations made by the respondent, the person who is the subject of the proceedings (if not the applicant), or any other person named in the order.

(7) An application to vary, extend or discharge an order made under the Act of 2007 shall be made in Form F16 and this rule shall apply to the hearing of such an application.

Forced marriage protection orders made by the court of its own motion

3.46.—(1) Where the court makes a forced marriage protection order of its own motion under paragraph 3 of Schedule 1 to the Act of 2007, it shall set out in the order—

- (a) a summary of its reasons for making the order and
- (b) the names of the persons who are to be served with the order.

(2) The court may order service of the order on—

- (a) any of the parties to the current proceedings,
- (b) (if different) the person being protected by the order; and
- (c) any other persons whom the court considers should be served.

(3) The court will give directions as to how the order is to be served.

(4) The court may direct that a further hearing be held to consider any representations made by any of the persons named in the order.”;

- (c) In rule 5.1 for “from a decree” to the end, substitute “or paragraph 11(3) of Schedule 1 to the Act of 2007 from, as the case may be a decree, civil partnership order, forced marriage protection order, or other order of a judge (or the dismissal of or refusal to grant such decree or order) in proceedings in a designated county court as if the reference to the High Court in Order 59 rule 10(1) were a reference to a designed county court”; and
- (d) In Appendix 1, after Form F9 insert the forms set out in the Schedule to these Rules.

Signed by the authority of the Lord Chancellor

In exercise of the powers conferred by section 12A(2) of the Family Law (Northern Ireland) Order 1993, I allow these Rules.

Parliamentary Under-Secretary of State
Ministry of Justice

Dated

SCHEDULE

Rule 2(d)

“Form F10

APPLICATION FOR A FORCED MARRIAGE PROTECTION ORDER

Forced Marriage (Civil Protection) Act 2007

[In the High Court of Justice in Northern Ireland]

[In the County Court for the Division of]

Please read the accompanying notes as you complete this form.

1. About you (the applicant)

Are you (tick only one box)

The person who is to be protected by this order (see Notes for Guidance)

a relevant third party (see Notes for Guidance)

any other person (see Notes for Guidance)

State your title (Mr, Mrs, etc), full name, address, telephone number and date of birth (if under 18):

State your solicitor's name, address, reference, telephone, FAX and DX numbers:

2. About the person to be protected (see Notes for Guidance)

State the name, address and date of birth (if known) of the person to be protected:

3. About the respondent

State the respondent's name, address and date of birth (if known):

4. The order(s) for which you are applying (see Notes for Guidance)

State briefly here the order you want. Give full details in support of your application in your supporting evidence.

Tick this box if you wish the court to hear your application without notice being given to the respondent. The reasons relied on for an application being heard without notice must be given in a sworn statement filed along with this application.

5. At the court

Will you need an interpreter at court? Yes No

If 'Yes', specify the language:

Please contact the court to ask what help is available.

6. Other information

State the name and date of birth of any other person(s) who may become involved as a respondent.

7. Other Proceedings and Orders

If there are any other current family proceedings or orders in force involving you, the respondent(s) or the person to be protected, state the type of proceedings or orders, the court and the case number.

This application is to be served upon the respondent or, if the application is being made without notice to the respondent, is to be supported by a sworn statement explaining why it is made without notice.

Signed

Date

Notes for Guidance

Section 1.

There are three types of applicant. The person to be protected, someone acting on their behalf and a relevant third party.

- If you are the person to be protected and are applying yourself for an order, with or without legal representation, you are also the applicant. Fill in section 1 only, and then go to section 3.
- A relevant third party applicant is a person or organisation that is allowed to make an application on behalf of another without the leave of the court.
- Only the Department of Finance and Personnel can make a person or organisation a relevant third party.
- If you are not a relevant third party and you are not the person who is to be protected by the order you can still make the application, but you will need to obtain the court's permission. The court can give you the form to apply for permission.

Address details

If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete Confidential Address Form C5. The court can give you this form.

Section 2 - Person to be protected

This section only needs to be completed if you are applying on behalf of someone. If you are the person to be protected by the order, leave this section blank.

Address details

If you do not wish the address of the person to be protected to be made known to the respondent, leave the space blank and complete Confidential Address Form C5. The court can give you this form.

Section 4 – The Order

A forced marriage protection order protects a person from being forced into marriage or from remaining in a forced marriage. The court could, for example, order that the respondent does not take you abroad to be forced into marriage,

- behaves in a different way,
- hands over your passport and travel documents to the court.
- in this section or in a separate statement say why you are applying and give full details.

Urgent Orders

An urgent order made by the court before notice of the application is served on the respondent is called an ex-parte order. In deciding whether to make an ex-parte order the court will consider all the circumstances of the case, including:

- any risk of significant harm to the person to be protected or another person if the order is not made immediately
- whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately
- whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the person to be protected or the applicant will be seriously prejudiced by the delay involved.

If the application is made ex-parte it must be supported by a sworn statement explaining why it is not being served on the respondent.

If the court makes an ex-parte order, it must give the respondent an opportunity to make representations about the order as soon as just and convenient at a full hearing.

Form F11

NOTICE OF PROCEEDINGS

[In the High Court of Justice in Northern Ireland]

[In the County Court for the Division of]

NOTICE OF PROCEEDINGS

has applied to the court for an order.

About the Hearing

You should attend when the court hears the application at

on

at

[am][pm]

What to do next

There is a copy of the application with this Notice. You have been named as a party in the application. Read the application now, and the notes overleaf.

When you go to court please take this Notice with you and show it to a court official.

About this Notice

1. If you are named as a respondent in the application form

It is in your own interest to attend the court on the date shown on this form. You should be ready to give any evidence which you think will help you to put your side of the case.

For legal advice

- go to a solicitor or an advice agency. You can obtain the address of a solicitor or an advice agency from the Yellow Pages or the Law Society.
- a solicitor or an advice agency will be able to tell you whether you may be eligible for legal aid.

If you require an interpreter

- because you do not speak English, or because of a disability, please contact the court to ask what help is available.

2. If you are named as the person to be protected or anyone else

It may be in your interest to attend the court on the date shown on this form

For legal advice

- go to a solicitor or an advice agency. You can obtain the address of a solicitor or an advice agency from the Yellow Pages or the Law Society.
- a solicitor or an advice agency will be able to tell you whether you may be eligible for legal aid.

If you require an interpreter

- because you do not speak English, or because of a disability, please contact the court to ask what help is available.

Form F12

IN THE MATTER OF THE FORCED MARRIAGES (CIVIL PROTECTION) ACT
2007

Record of the Hearing on:

Case Number

Applicant

Respondent

On notice

Ex parte

Attendees

Name	Represented by
Evidence <i>To be completed only when the court makes a finding of fact</i>	
The court read the report(s)/statement(s) of The court heard oral evidence [on oath] from	Dated

Form F13

IN THE MATTER OF THE FORCED MARRIAGES (CIVIL PROTECTION) ACT
2007

[In the High Court of Justice in Northern Ireland]

[In the County Court for the Division of]

Forced Marriage Protection Order

Ordered by _____

on

Important Notice to the Respondent [name]

This order gives you instructions which you must follow. You should read it all carefully. If you do not understand anything in this order you should go to a solicitor, or an Advice Centre. You have a right to ask the court to change or cancel the order but you must obey it unless the court does change or cancel it.

You must obey the instructions contained in this order. If you do not, you may be guilty of an offence, and you may be sent to prison and/or fined.

Form F14

APPLICATION FOR LEAVE TO COMMENCE PROCEEDINGS

Forced Marriage (Civil Protection) Act 2007

[In the High Court of Justice in Northern Ireland]

[In the County Court for the Division of]

Important Note: Complete this form if you are seeking permission from the court to make an application on behalf of the person to be protected. **You must also complete application form F11.** The court can give you this form

1. About you (the applicant)

State your title (Mr, Mrs, etc), full name, address, telephone number and date of birth (if under 18):

2. About the person to be protected

State the name, address and date of birth (if known) of the person to be protected:

3. Your reasons for applying on behalf of the person to be protected

State briefly your reasons, which should include:

- your connection with the person to be protected;
- what you know of the circumstances of the person to be protected;
- the wishes and feelings of the person to be protected so far as you know them.

Signed

Date

Form F15

APPLICATION TO BE JOINED AS, OR CEASE TO, BE A PARTY TO
PROCEEDINGS

Forced Marriage (Civil Protection) Act 2007

[In the High Court of Justice in Northern Ireland]

[In the County Court for the Division of]

1. About you (the applicant)

State your title (Mr, Mrs, etc), full name, address, telephone number and date of birth (if under 18):

If you do not wish your address to be made known to the respondent, leave this space blank and complete Confidential Address Form C5 (if you have not already done so). The court can give you this form.

State your solicitor's name, address, reference, telephone, FAX and DX numbers:

2. Your reasons for applying

State briefly your reasons:

3. The persons to be served with this application (The respondent(s))

State the name, address and date of birth (if known) of the respondent(s):

4. At the court

Will you need an interpreter at court? Yes No

If 'Yes', specify the language:

Please contact the court to ask what help is available.

Signed

Date

Form F17

STATEMENT OF SERVICE

Forced Marriage (Civil Protection) Act 2007

[In the High Court of Justice in Northern Ireland]

[In the County Court for the Division of]

Applicant

Respondent

You must give details of service of the application on each of the other parties
file this form with the court on or before the date fixed for hearing of the
proceedings

You should if the person's solicitor was served, give his or her name and address

You must indicate the manner, date, time and place of service or where service was effected
by post, the date, time and place of posting

Name and address of person served	Means of identification of person, and how, when and where served	Prescribed forms served

I have served the [application] [Notice of Proceedings] as stated above.

I am the [applicant] [solicitor for the applicant] [other] (state)

Signed

”

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Family Proceedings Rules (Northern Ireland) 1996 (“the 1996 Rules”) to make provision for applications for a forced marriage protection order under Schedule 1 to the Forced Marriage (Civil Protection) Act 2007.

The procedure for such applications is contained in new rules 3.40 to 3.46.

- New rule 3.40 contains principal definitions.
- New rule 3.41 sets out how an application for a forced marriage protection order is to be made.
- New rule 3.42 deals with cases where leave of the court is required to make an application.
- New rule 3.43 makes provision for service of the application.
- New rule 3.44 makes provision for joining or removing a person as party to the proceedings.
- New rule 3.45 provides for the hearing of applications for forced marriage protection orders and service of the ensuing orders.
- New rule 3.46 provides for orders made by the court of its own motion.

Rule 5.1 of the 1996 Rules is also amended to provide for appeals in respect of a forced marriage protection order from a designated county court to the Court of Appeal.