

2010 No. 381

COURT OF JUDICATURE, NORTHERN IRELAND

PROCEDURE

**The Rules of the Court of Judicature (Northern Ireland)
(Amendment No. 2) 2010**

Made - - - - - *18th November 2010*

Coming into operation - - - - - *20th December 2010*

The Northern Ireland Court of Judicature Rules Committee^(a) makes the following Rules in exercise of the powers conferred by sections 55 and 55A of the Judicature (Northern Ireland) Act 1978^(b).

Citation and commencement

1.—(1) These Rules may be cited as the Rules of the Court of Judicature (Northern Ireland) (Amendment No. 2) 2010 and shall come into operation on 20th December 2010.

(2) These Rules amend the Rules of the Court of Judicature (Northern Ireland) 1980^(c) and an Order or Form referred to by number or an Appendix referred to by letter means the Order or Form so numbered or the Appendix so lettered in the amended Rules.

Amendments

2. In Order 6, rule 4(1)(a), after “within the jurisdiction”, insert “or any other EEA state”.
3. In Order 12, rule 3(3)(c), after “within the jurisdiction”, insert “or any other EEA state”.
4. In Order 64—
 - (a) in rule 5(1)(f), for “Lord Chancellor”, substitute “Department of Justice”;
 - (b) in rule 5(2), for “Lord Chancellor”, substitute “Department of Justice”.
5. In Order 65, rule 5(3), for “Lord Chancellor”, substitute “Department of Justice”.
6. In Order 73, rule 7(2)(c)(i), after “within the jurisdiction”, insert “or any other EEA state”.
7. In Order 80, rule 15(2)—
 - (a) for “Lord Chancellor”, substitute “Department of Justice”;

(a) The Northern Ireland Supreme Court Rules Committee was renamed the Northern Ireland Court of Judicature Rules Committee in accordance with section 59(3) of the Constitutional Reform Act 2005 (c.4).

(b) 1978 C.23; to which the most recent relevant amendments were made by paragraphs 29 and 30 of Schedule 5 to the Constitutional Reform Act 2005 (c.4) and by Article 15 of and Schedule 17 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010 No. 976).

(c) S.R. 1980 No. 346; to which the most recent amendments were made by S.R. 2009 No. 264, S.R. 2009 No. 345 and S.R. 2010 No. 49.

(b) for “Treasury”, substitute “Department of Finance and Personnel”.

8. In Order 84A,

(a) for rule 1(1), substitute—

“Interpretation

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

“the 2008 Act” means the Human Fertilisation and Embryology Act 2008^(a) 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^(b) as applied with modifications by the Parental Orders Regulations and expressions which are defined in the 1987 Order have the same meaning as in that Order;

“the Parental Orders Regulations” means the Human Fertilisation and Embryology (Parental Orders) Regulations 2010^(c);

reference to a Form by number is reference to the Form as numbered in Appendix H;

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

“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;

“the Office” means the Office of Care and Protection and “the Master” means the Master (Care and Protection).”;

(b) in rule 2, for “1990”, substitute “2008”;

(c) in rule 3(2), for “husband and wife”, substitute “the persons who may apply for a parental order pursuant to section 54 of the 2008 Act”;

(d) in rule 5(1)(a), for “section 30(1) to (7) of the 1990 Act;”, substitute “section 54(1) to (8) of the 2008 Act;”.

9. In Order 97, rule 2(2), after “within the jurisdiction”, insert “or any other EEA state”.

10. In Order 117, rule 3(5), for “Lord Chancellor”, in each place that it occurs, substitute “Department of Justice”.

11. In Appendix A, in note 8 of Form 12, omit “in Northern Ireland”.

12. In Appendix H—

(a) for Form 1, substitute Form 1 as set out in the Schedule to these Rules;

(b) in Form 5, for “section 30 of the Human Fertilisation and Embryology Act 1990”, substitute “section 54 of the Human Fertilisation and Embryology Act 2008” and, for “Parental Orders (Human Fertilisation and Embryology) Regulations 1994”, substitute “Human Fertilisation and Embryology (Parental Orders) Regulations 2010”.

(a) 2008 (c.22).

(b) S.I. 1987/2203 (N.I.22).

(c) S.I. 2010/985.

*Declan Morgan
F P Girvan
W R B Stephens
Bernard McCloskey
John Gillen
Paul Maguire*

Dated 11th November 2010

In exercise of the powers conferred by section 55A(3) of the Judicature Act 1978, I allow these Rules.

Sealed with the Official Seal of the Department of Justice on 18th November 2010



David Ford
Minister of Justice

SCHEDULE

Rule 12(a)

“(Order 84A Rule 3(1))

Form 1

Originating Summons for a Parental Order

In the High Court of Justice in Northern Ireland Family Division
No. of 20

IN THE MATTER OF the Human Fertilisation and Embryology Act 2008

IN THE MATTER OF [] a child,
(Enter the first name(s) and surname by which the child is known).

We, the undersigned and
wishing to have a Parental Order made in respect of , (Enter the first
name(s) and surname of the child as shown in his/her birth certificate) 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."

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Rules of the Court of Judicature (Northern Ireland) 1980 (S.R. 1980 No. 346) to:

- provide for service on a solicitor within any EEA state consistent with EC Directive 2006/123/EC;
- substitute references to the Lord Chancellor and the Treasury with references to the Department of Justice and the Department of Finance and Personnel respectively to take account of the devolution of court related functions; and
- take account of amendments made by the Human Fertilisation and Embryology Act 2008 in relation to applications for parental orders.