

## 1995 No. 2

## SUPREME COURT, NORTHERN IRELAND

## PROCEDURE

The Rules of the Supreme Court (Northern Ireland)  
(Amendment) 1995

*Made* . . . . . 9th January 1995

*Coming into operation* . . . . . 2nd February 1995

*To be laid before Parliament*

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 55 of the Judicature (Northern Ireland) Act 1978(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby, with the concurrence of the Lord Chancellor, exercise those powers as follows:

*Citation, commencement and interpretation*

1.—(1) These Rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Amendment) 1995 and shall come into operation on 2nd February 1995.

(2) In these Rules “the principal rules” means the Rules of the Supreme Court (Northern Ireland) 1980(b) and an Order referred to by number means the Order so numbered in the principal rules.

*Business of the Supreme Court*

2. Order 1 shall be amended as follows:—

(a) in rule 11 by the addition of the following new paragraphs—

“(g) appeals under rule 14 or 15 of the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992(c);

(h) appeals under section 28(2D) or (2E) of the Criminal Appeal (Northern Ireland) Act 1980(d).”.

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(a) 1978 c. 23 as extended by section 28(2C) of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47); sub-section (2C) was inserted by section 53 of the Criminal Justice and Public Order Act 1994 (c. 33)  
 (b) S.R. 1980 No. 346; the relevant amending instruments are S.R. 1981 No. 224; S.R. 1983 No. 407; S.R. 1986 No. 203; S.R. 1988 No. 71; S.R. 1989 No. 287; S.R. 1991 No. 232; S.R. 1992 No. 399  
 (c) S.R. 1992 No. 314 as amended by S.R. 1994 No. 209  
 (d) 1980 c. 47; sub-sections (2D) and (2E) were inserted into section 28 by section 53 of the Criminal Justice and Public Order Act 1994 (c. 33)

(b) in rule 12 by the addition of the following new paragraph—

“(d) proceedings under the Human Fertilisation and Embryology Act 1990(a) and the Adoption (Northern Ireland) Order 1987(b) as applied with modifications by the Parental Orders (Human Fertilisation and Embryology) Regulations 1994(c);”.

*Contents of affidavit*

3. Order 41 of rule 5(1) shall be amended by the addition of the following sub-paragraph—

“(f) Order 88, rule 5 (2A);”.

*Mortgage actions*

4. Order 88 shall be amended as follows—

(a) in rule 4

(i) paragraphs (4), (5), (6) and (7) shall be renumbered (3), (4), (5) and (6) respectively;

(ii) in paragraphs (4) and (5) (as renumbered) for each reference to paragraph “(4)” there shall be substituted a reference to paragraph “(3)”;

(iii) in paragraph (6) (as renumbered) for the reference to paragraph “(5)” there shall be substituted a reference to paragraph “(4)”;

(b) in rule 5—

(i) the following paragraph shall be inserted after paragraph (2)—  
“(2A) Unless the court otherwise directs the affidavit may contain statements of information or belief with the sources and grounds thereof”;

(ii) the following paragraph shall be substituted for paragraph (4)—  
“(4) Where the plaintiff claims delivery of possession, the affidavit must—

(a) give particulars of every person who to the best of the plaintiff’s knowledge is in possession of the mortgaged property; and

(b) state, in the case of a dwelling house, whether a charge has been registered pursuant to Article 6 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984(d) and if so, on whose behalf, and whether he has served notice of the proceedings on the person on whose behalf the charge is registered.”;

(c) in rule 5A(1) after the words “Chancery Division” there shall be inserted the words “for possession”;

(a) 1990 c. 37

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

(c) S.I. 1994/2767

(d) S.I. 1984/1984 (N.I. 14)

## (d) in rule 6—

- (i) in paragraph (3) for the words “rule 5(2) to (7)” there shall be substituted the words “rule 4(2) to (6)”;
- (ii) in paragraph (4) for the reference to “rule 6” there shall be substituted a reference to “rule 5”;

## (e) in rule 7—

- (i) in paragraph (6) for the word “shall” where it first appears there shall be substituted the word “may”;
- (ii) for paragraph (7) there shall be substituted the following paragraph—

“(7) If the court, on directing such an account, shall be of the opinion that extending it to mortgages subsequent to the demand of the plaintiff will improperly delay the plaintiff in recovering his demand, the account may be confined to the rights of the plaintiff and of mortgagees prior to and contemporaneous with him.”

*Proceedings relating to minors*

## 5. Order 90 shall be amended as follows—

## (a) in rule 20—

- (i) in paragraph (2) after the words “section 20(2) of the Act” there shall be inserted the words “or section 42(2) of the Child Custody Act 1987 (an Act of Tynwald)”;
- (ii) in paragraphs (4) and (5) for the words “or the High Court in England and Wales” wherever they appear there shall be inserted the words “the High Court in England and Wales or the High Court of Justice of the Isle of Man”;
- (iii) in paragraph (6) after the words “a court of summary jurisdiction in Northern Ireland” there shall be inserted the words “the High Court of Justice of the Isle of Man, a court of summary jurisdiction in the Isle of Man”;

## (b) in rule 21 for the words “or the High Court in England and Wales” wherever they appear there shall be substituted the words “the High Court in England and Wales or the High Court of Justice of the Isle of Man”;

## (c) in paragraph (1) of rule 26—

- (i) in the definition of “the appropriate court” at the end there shall be added the words “and in relation to a specified dependent territory, the corresponding court in that territory”;
- (ii) after that definition there shall be inserted the following definition—

“ “the appropriate officer” means in relation to the High Court in England and Wales, the Secretary of the Principal Registry of the Family Division, in relation to the Court of Session, the Deputy Principal Clerk of Session and in relation to the appropriate court in a specified dependent territory, the corresponding officer of that court;”;

- (iii) the definitions of “the Deputy Principal Clerk” and “the Secretary of the Principal Registry” shall be omitted;
- (iv) after the definition of “registration” there shall be inserted the following definition—
  - “ “specified dependent territory” means a dependent territory specified in column 1 of Schedule 1 to the Family Law Act 1986 (Dependent Territories) Order 1991(a)”;
- (d) in rule 27—
  - (i) for sub-paragraph (1)(d) there shall be substituted the following sub-paragraph—
    - “in which of the jurisdictions of England, Scotland, or a specified dependent territory the order is to be registered;”
  - (ii) in sub-paragraph (3)(a) for the words “the Secretary of the Principal Registry or to the Deputy Principal Clerk as the case may be” there shall be substituted the words “the appropriate officer”;
- (e) in rule 28 for the words “or Scotland” there shall be substituted the words “, Scotland, or a specified dependent territory”;
- (f) in sub-paragraph (1)(a) of rule 29 for the words “the Secretary of the Principal Registry or to the Deputy Principal Clerk as the case may be,” there shall be substituted the words “the appropriate officer”;
- (g) in paragraph (1) of rule 30 for the words “or Scotland” there shall be substituted the words “, Scotland, or a specified dependent territory”.

*Further amendments to the principal rules*

6.—(1) The Orders set out in Schedules 1, 2 and 3 hereto shall be inserted into the principal rules in the places appropriate to their number.

(2) The Appendix set out in Schedule 4 hereto shall be inserted into the principal rules in the place appropriate to its letter.

Dated 13th December 1994

*Brian Hutton  
John MacDermott  
J. M. Nicholson  
Anthony Campbell  
Hugh P. Kennedy  
Aidan A. Canavan*

I concur,

*Mackay of Clashfern, C.*

Dated 9th January 1995

## ORDER 84A

**Parental Orders***Interpretation*

1. In this Order, unless the context otherwise requires—

“the 1990 Act” means the Human Fertilisation and Embryology Act 1990(a) and expressions which are defined in the 1990 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 Parental Orders (Human Fertilisation and Embryology) Regulations 1994(c);

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

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

*Proceedings*

2. Any hearing of an application under the 1990 Act or the 1987 Order shall be dealt with in chambers unless the court otherwise directs.

*Commencement of proceedings*

3.—(1) An application for a parental order shall be made by originating summons in Form 1 issued out of the Office.

(2) The applicants shall be the husband and wife and the respondents shall be the birth parents (except where the applicants seek to dispense with their consent) and any other persons or body in whom the parental rights and duties relating to the child are vested at the time of the application.

(3) The court may at any time direct that any other person or body be made a respondent to the summons.

(4) On filing the originating summons the applicants shall pay the appropriate fee and supply three copies of the originating summons together with any other documents required to be supplied.

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(a) 1990 c. 37

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

(c) S.I. 1994/2767

*Appointment of guardian ad litem*

4.—(1) As soon as practicable after the originating summons has been filed, the Master shall appoint a guardian ad litem of the child and shall send to him a copy of the originating summons together with any documents attached thereto.

(2) The guardian ad litem shall be an officer of a Board or of an HSS trust or a person employed by such other organisation as the Department may approve.

*Duties of guardian ad litem*

5.—(1) With a view to safeguarding the interests of the child before the court the guardian ad litem shall—

(a) investigate so far as is reasonably practicable the matters set out in section 30(1) to (7) of the 1990 Act;

(b) so far as he considers necessary, investigate any matter contained in the originating summons or other matter which appears relevant to the making of a parental order.

(c) on completing his investigations make a report in writing to the court, drawing attention to any matters which, in his opinion, may be of assistance to the court in considering the application and shall so notify the applicants that he has done so;

(d) perform, at any time before the final determination of the application, such other duties as appear to him to be necessary or as the court may direct.

(2) With a view to obtaining the directions of the court on any matter, the guardian ad litem may at any time make such interim report to the court as appears to him to be necessary and in such a case the Master shall notify the applicants.

(3) The guardian ad litem shall attend any hearing of the application if so required by the court.

(4) Any report made to the court under this rule shall be confidential.

*Agreement*

6.—(1) Any document signifying the agreement of the birth parents to the making of a parental order shall be in Form 2 and shall, if executed in Northern Ireland, be witnessed by a Justice of the Peace.

(2) If the document is executed outside Northern Ireland it shall be witnessed by one of the persons specified in rule 7(2), (3) or (4) of Order 84, according to the country in which it is executed.

(3) If the document is executed before the commencement of proceedings, it shall be filed with the originating summons.

*Notice of hearing*

7.—(1) Within 14 days of being notified by the guardian ad litem that he has made his report to the court, the applicants shall apply to the Master to fix a date for the hearing of the application.

(2) On an application under paragraph (1) the Master shall fix a date and time for the hearing and shall take account of any directions given under paragraph (6).

(3) The Master shall inform the applicants and the guardian ad litem of the date and time fixed for hearing and the applicants shall serve notice of the hearing in Form 3 on all the parties and any Board, HSS trust or voluntary organisation which has at any time provided accommodation for the child.

(4) If the applicants have no solicitor acting for them the Notice in Form 3 shall be signed by the Master.

(5) Anyone wishing to object to the making of a parental order, shall within 14 days of the date of service on him of the Notice of Hearing give the Master written notice of his intention to object in Form 4.

(6) If at any stage before the hearing of the application it appears to the court that directions for the hearing are required the court may give such directions as it considers necessary.

### *Objections*

8.—(1) Where the Master receives notice of objection under rule 7(5) he shall notify the judge, the applicants (or their solicitor) and the guardian ad litem, and the judge shall give such directions as appear appropriate.

(2) The judge may direct that the person who served such notice of objection shall appear before him in his chambers on a date fixed by him and upon hearing the nature of or grounds for the objection made by him or his legal representative on his behalf give such directions or make such orders as appear just.

### *The hearing*

9.—(1) Subject to any directions given under rule 8(2) on the hearing of the summons, any person served with a Notice of Hearing under rule 7(3) may attend and be heard on the question whether a parental order should be made.

(2) Any member or employee of a Board, HSS trust or other body may address the court if he is duly authorised in that behalf.

(3) The judge shall not make a parental order except after the personal attendance before him of the applicants.

(4) If there are special circumstances which appear to the court to make the attendance of any other party desirable, the court may direct that that party shall attend.

### *Proof of identity of child, etc.*

10. Where the child who is the subject of the proceedings is identified in the originating summons by reference to a birth certificate which is the same, or relates to the same entry in the Register of Births, as a birth certificate exhibited to a form of agreement, the child so identified shall be deemed, unless the contrary appears, to be the child to whom the form of agreement refers.

### *Notices and copies of orders etc*

11.—(1) A parental order shall be made in Form 5.

(2) Within 7 days of the making of the parental order the Master shall send a copy of the order to the Registrar General.

(3) Where a parental order is made or refused the Master shall serve notice to that effect on every respondent.

(4) A copy of a parental order may be supplied to the applicants.

(5) A copy of a parental order may be supplied to any other person with the leave of the court.

### *Application in respect of removal of, or for return of, child*

12.—(1) An application under Article 28(1) or 30(1) or (2) of the 1987 Order shall be made by sending a notice of application in Form 6 to the Master.

(2) Subject to paragraph (4), the Master shall serve a copy of the notice of application, together with a notice of the date of hearing on the parties to the proceedings for a parental order, on any guardian ad litem who has been appointed at the date of the application and on any other person or body, not being the child, as the court thinks fit.

(3) Anyone who wishes to object to the application shall, within 14 days of the service of the application on him, send written notice of his objection to the Master.

(4) The Master shall serve a copy of the written notice of objection on each person served with a copy of the application.

(5) The court may at any time give directions, as to the appointment of a guardian ad litem of the child or, as to the conduct of the application under this rule.

(6) Where an application under this rule is determined the Master shall serve notice of the effect of the determination on all parties.

#### *Application for amendment of orders and revocation of directions*

13.—(1) An application under Article 52 of the 1987 Order for the amendment of a parental order, or, for the revocation of a direction, for the marking of an entry in the Register of Births or the Parental Order Register, to the Registrar General, 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 referred to in paragraph (1) is granted, the Master 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.

#### *Service of documents*

14. The person effecting service of any document under this Order shall make, sign and file a certificate showing the date, place and mode of service. If he has failed to effect service of any document, he shall make, sign and file a certificate of non-service showing the reason why service has not been effected.

#### *Costs*

15. On the determination of proceedings to which this Order applies, the judge may make such order as to the costs as he thinks just and, in particular, may order the applicants to pay—

- (a) the expenses incurred by the guardian ad litem,
- (b) the expenses incurred by any respondent in attending the hearing, or such part of those expenses as the judge thinks proper.

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

16.—(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) A party who is an individual and is referred to in a confidential report supplied to the court by a guardian ad litem may inspect, for the purposes of the hearing, that part of such report as refers to him, subject to any direction given by the court that—

- (a) no part of the report shall be revealed to that party, or
- (b) the part of the report referring to that party shall be revealed only to that party's legal advisers, or
- (c) the whole or any other part of the report shall be revealed to that party.



(3) 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 (whether in Northern Ireland or not) having power to determine proceedings for parental orders and related matters, for the purpose of the discharge of its duties in that behalf; or

(ii) by a person who is authorised in writing by the Department to obtain the information for the purposes of research.

(4) Save as required or authorised by a provision of any enactment or of this Order or with the leave of the court, no document or order held by or lodged with the court in relation to proceedings for a parental order shall be open to inspection by any person, and no copy of any such document or order, or of an extract from any such document or order, shall be taken by or issued to any person.

## ORDER 96

**Access to Health Records (Northern Ireland) Order 1993***Interpretation*

1. In this Order—

“the 1993 Order” means the Access to Health Records (Northern Ireland) Order 1993(a);

“the Regulations” means the Access to Health Records (Steps to Secure Compliance and Complaints Procedures) Regulations (Northern Ireland) 1994(b);

“the holder of the health record” has the same meaning as in the 1993 Order;

“complaint” means a complaint made in accordance with the Regulations;

“date of the complaint” has the same meaning as in the Regulations;

“the report” means a report made in accordance with the Regulations in response to a complaint.

*Assignment of proceedings*

2. Any proceedings under Article 10 of the 1993 Order shall be assigned to the Queen’s Bench Division.

*Application*

3.—(1) An application under Article 10 of the 1993 Order shall be made by originating summons and may be brought—

(a) where the applicant has received a report in accordance with regulation 5 of the Regulations, within one year of the date of the report;

(b) where the applicant has not received such a report, within 18 months of the date of the complaint.

(2) An affidavit shall be filed in support of the summons setting out the steps taken in accordance with the Regulations to secure compliance with any requirement of the 1993 Order and there shall be exhibited to the affidavit—

(a) a copy of the application under Article 5 or Article 8 of the 1993 Order as appropriate;

(b) a copy of the complaint made in accordance with the Regulations;

(c) a copy of any report given by the holder of the health record if applicable.

(3) A copy of the said affidavit shall be served on the defendant together with the summons.

**Expenses in Criminal Proceedings in the Court of Appeal***Interpretation*

## 1. In this Order—

“the Act” means the Criminal Appeal (Northern Ireland) Act 1980 and a section referred to by number means the section so numbered in the Act;

“applicant” means the solicitor or counsel applying for the review of a decision of the Taxing Master under section 28(2A);

“Taxing Master” means the Master (Taxing Office).

*Application to the Taxing Master for review*

2.—(1) An application under section 28(2A)(a) for a review of the Taxing Master’s decision under section 28(2)(a) must be made within 21 days of receipt of that decision or within such other period as may be fixed by the Taxing Master.

(2) Every applicant for review under this rule must at the time of making his application—

(a) deliver to the Taxing Master his objections in writing specifying separately in relation to the expenses to be reviewed, the amount claimed for those expenses, the amount allowed and the grounds of the objection to the amount allowed;

(b) indicate in writing whether he wishes to appear or to be represented at the review or whether he will accept a decision given in his absence.

*Review by Taxing Master*

3.—(1) A review under section 28(2A) shall be carried out by the Taxing Master.

(2) The Taxing Master may require the applicant to provide any further information which he requires for the purposes of the review and unless the Taxing Master otherwise directs, no further evidence shall be received on a hearing of a review and no ground of objection shall be valid which was not specified in the application under rule 2(2).

(3) On a review under section 28(2A) the Taxing Master may allow the applicant a sum in respect of part or all of any reasonable costs incurred by him in connection with the review.

(4) The Taxing Master shall communicate his decision on a review to the applicant in writing and shall state his reasons for that decision by reference to the objections and any special circumstances or facts relevant to it.

(5) The Taxing Master shall also communicate his decision on a review and the reasons for it to the Lord Chancellor and shall send to the Lord Chancellor copies of such documents as the Lord Chancellor may require.

*Appeals to the High Court*

4. An appeal to the High Court under section 28(2D) or (2E) from a decision of the Taxing Master on a review under section 28(2A) shall be made in accordance with the provisions of Order 55 Part II.

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(a) Sub-section (2A) was inserted into section 28 by section 53 of the Criminal Justice and Public Order Act 1994 (c. 33)

**Parental Order Forms**

FORM 1

Order 84A Rule 3(1)

**Originating Summons for a Parental Order**

In the High Court of Justice in Northern Ireland Family Division

No. \_\_\_\_\_ of 19 \_\_\_\_\_

IN THE MATTER OF The Human Fertilisation and Embryology Act 1990

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 further particulars in support of our application.

**PART I****PARTICULARS OF THE CHILD**

1. The birth name of the child  
The child is of the \_\_\_\_\_ sex. He/she was born on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, at \_\_\_\_\_ *(address where child born)* and is the person to whom the attached birth certificate relates.
2. The address where the child lives now
3. The parental rights and duties relating to the child are vested in
4. Proposed names  
If a Parental Order is made in pursuance of this application, the child is to be known by the following names:  
Surname \_\_\_\_\_  
Other Names \_\_\_\_\_

PART II

PARTICULARS OF THE APPLICANT

- 5. Name of husband applicant in full
- Address
- Occupation
- Date of Birth
- I am/am not a genetic parent of the child
- Name of wife applicant in full
- Address
- Occupation
- Date of Birth
- I am/am not a genetic parent of the child

PART III

PARTICULARS OF BIRTH PARENTS

- Name of birth mother in full
- Address
- Name of birth father (if appropriate) in full
- Address

PART IV

PARENTAL AGREEMENT

We understand that *(birth mother)*  
 and *(if appropriate)* *(birth father)*  
 are willing to agree to the making of a Parental Order in pursuance of our application.

*Notes:* The agreement of the birth mother and birth father (where appropriate) is required, or must be dispensed with on one of the grounds below before a parental order can be made.

The child must be at least 6 weeks old when the birth mother's agreement is given.

We request the judge to dispense with the agreement of *(birth mother)* and *(if appropriate)* *(birth father)* on the ground(s) that:—

PART V

GENERAL

The child was looked after by trust) (Voluntary Organisation) of (address) from (dates) until a (Board) (HSS

No proceedings relating in whole or in part to the child have been completed or commenced in any court in Northern Ireland or elsewhere (except ).

We did/not attend a licensed treatment centre at (address)

PART VI

DECLARATION

We the applicants declare that:—

- (a) we are married to each other and a copy of our marriage certificate is attached
(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 30(7) of the Human Fertilisation and Embryology Act 1990
(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.

We accordingly apply for a parental order in respect of the child.

Dated this day of 19

Signed husband applicant
wife applicant

**Agreement to a Parental Order***(Heading as in Form 1)*

*If you are in any doubt about your legal rights you should obtain legal advice before signing this form*

WHEREAS an application is to be/has been made by  
and (insert the  
names of the applicants) for a parental order in respect of

*(Enter the first name(s) and surname of the child as known to the person giving agreement) a child;*

AND WHEREAS the child is the person to whom the birth certificate attached marked 'A' relates;

(AND WHEREAS the child is at least six weeks old;)

We, the undersigned of  
being the birth mother and the birth father (where appropriate) of the child hereby state as follows:—

- (1) We understand that the effect of a parental order will be to deprive us permanently of the parental rights and duties relating to the child and to vest them in the applicants; and in particular we understand that, if an order is made, we shall have no right to see or get in touch with the child or to have him/her returned to us.
- (2) We further understand that the court cannot make a parental order without the agreement of the birth mother and, where appropriate, the birth father of the child unless the court dispenses with an agreement on the ground that the person concerned cannot be found or is incapable of giving agreement.
- (3) We further understand that when the application for a parental order is heard, this document may be used as evidence of our agreement to the making of the order unless we inform the court that we no longer agree.
- (4) We hereby freely, and with full understanding of what is involved, agree to the making of a parental order in pursuance of the application.
- (5) As far as we know, the only person(s) or body(ies) who has/have taken part in the arrangements in respect of the proposed parental order is/are *(delete if inapplicable)*.
- (6) We have not received or given any money or other benefit (other than for expenses reasonably incurred) for, or in consideration of—
  - (a) the making of the parental order,
  - (b) any agreement required,
  - (c) the handing over of the child to the applicants, or

(d) the making of any arrangements with a view to the making of the parental order

*(delete if inapplicable)*

or

as authorised by the court, we have received or given money or other benefit as follows *(delete if inapplicable)*

Signatures:

This form, duly completed, was signed by the said \_\_\_\_\_ and  
before me at \_\_\_\_\_ on the \_\_\_\_\_ day of 19 \_\_\_\_.

Signature:

Address:

Description:

*Notes*

**Paragraph 3:** Notice will be given of the hearing of the application and of the court by which it is to be heard. After the making of the application a parent or guardian cannot remove the child from the actual custody of the person with whom the child has his home except with the leave of the court.

**Paragraph 5:** Enter the name and address of any body or individual who took part in the arrangements in respect of the proposed parental order.

**Witness of statement:** In Northern Ireland the document should be witnessed by a Justice of the Peace. In Scotland, it should be witnessed by a Justice of the Peace or a Sheriff, and in England and Wales by a Justice of the Peace. Outside the United Kingdom it should be witnessed by a person authorised by law in the place where the document is signed to administer an oath for any judicial or legal purpose, a British consular officer, a notary public, or, if the person executing the document is serving in the regular armed forces of the Crown, an officer holding a commission in any of those forces.



Notice of Hearing of an Application for a Parental Order

(Heading as in Form 1)

To \_\_\_\_\_ of \_\_\_\_\_

WHEREAS an application for a parental order in respect of \_\_\_\_\_, (Enter the name(s) and surname of the child as shown in the originating summons) a child of the sex born on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, has been made by \_\_\_\_\_ and \_\_\_\_\_ (Enter the names of the applicants).

AND WHEREAS \_\_\_\_\_ was appointed guardian ad litem of the child;

TAKE NOTICE:—

- 1. That the said application will be heard before the judge at \_\_\_\_\_ on the day of \_\_\_\_\_ 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock and that you may then appear and be heard on the question whether a parental order should be made.
2. That you are not obliged to attend the hearing unless you wish to do so or the court notifies you that your attendance is necessary.
3. That while the application is pending, a parent or guardian of the child must not, except with the leave of the court, remove the child from the actual custody of the person with whom the child has his home.
(4. That the court has been requested to dispense with (your) (the birth parents') agreement to the making of an order on the ground(s) that \_\_\_\_\_ and a statement of the facts on which the applicants intend to rely is attached).

If you wish to object to the making of the order you should within 14 days complete the attached Form and return it to the Master (Care and Protection), High Court.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

..... Signed \_\_\_\_\_ Solicitor for the Applicant or Master where no Solicitor acting

[A copy of this form must be sent to:—

- (a) the birth parents;
(b) any persons or body in whom the parental rights and duties in relation to the child are vested at the time of the application;
(c) any Board, HSS trust or voluntary organisation that has at any time provided accommodation for the child.]

**Notice of Objection to the Making of a Parental Order**

To the Master (Care and Protection), High Court.

I received the Notice of the Hearing of an application for a parental order in respect of \_\_\_\_\_ a child of the \_\_\_\_\_ sex born on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ .

I intend to object to the making of such an order and wish to be heard on the hearing of the application. My objections may be summarised as follows:

(Date)

Signature  
Address

**Parental Order**  
(Heading as in Form 1)

WHEREAS an application has been made by  
of whose occupation is  
and whose occupation is  
for a parental order in respect of , a child  
of the sex, the child of (and  
);

AND THE COURT BEING SATISFIED THAT the conditions set out in section 30 of the Human Fertilisation and Embryology Act 1990 are met;

[IT IS ORDERED that the consent of (and  
, be and the same is hereby dispensed with;)]

IT IS ORDERED that a parental order be made in respect of the child [and that the parental rights and duties relating to the child (including the legal custody of the child) be vested in the applicants].

(AND AS REGARDS COSTS, it is ordered that );

(AND WHEREAS it has been proved to the satisfaction of the court that the child was born on the day of 19 , (and is identical with to whom the entry numbered made on the day of 19 , in the Register of Births for the registration district of in the county of relates;)

(AND WHEREAS the name or names and surname stated in the application as those by which the child is to be known are );

IT IS DIRECTED that the Registrar General shall make in the Parental Order Register an entry in accordance with Article 51 of, and Schedule 2 to, the Adoption (Northern Ireland) Order 1987, recording the particulars set out in this Order;

AND IT IS FURTHER DIRECTED that the aforesaid entry in the Register of Births be marked with the words 'Re-registered by the Registrar General pursuant to Article 51(4) of the Adoption (Northern Ireland) Order 1987 as applied with modifications by the Parental Orders (Human Fertilisation and Embryology Regulations 1994)'.  
Dated this day of 19 .



## EXPLANATORY NOTE

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

These rules amend the Rules of the Supreme Court (Northern Ireland) 1980 [S.R. 1980 No. 346] so as—

- (a) to amend *Order 1* to allocate appeals under section 28(2D) and (2E) of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (as inserted by section 53 of the Criminal Justice and Public Order Act 1994 (c. 33)) and under rules 14 and 15 of the Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1992 to the Queen's Bench Division;
- (b) to make minor amendments to *Order 41* (Affidavits) and *Order 88* (Mortgage Actions);
- (c) to amend *Order 90* (Proceedings relating to minors) in consequence of the Family Law Act 1986 (Dependent Territories) Order 1991 [S.I. 1991/1723] and the Child Abduction and Custody Act 1985 (Isle of Man) Order 1994 [S.I. 1994/2799];
- (d) to insert a new *Order 84A* (Parental Orders) and Appendix H to give effect to the arrangements by which a parental order may be obtained under section 30 of the Human Fertilisation and Embryology Act 1990 (c. 37);
- (e) to insert a new *Order 96* (Access to Health Records (Northern Ireland) Order 1993) to prescribe a procedure for applications under Article 10 of the Access to Health Records (Northern Ireland) Order 1993 (S.I. 1993/1250 (N.I. 4)); and
- (f) to insert a new *Order 117* (Expenses in criminal proceedings in the Court of Appeal) in consequence of the amendments made to section 28 of the Criminal Appeal (Northern Ireland) Act 1980 by section 53 of the Criminal Justice and Public Order Act 1994.