

SCHEDULE 1

Rule 4

PART IVA

FREERING FOR ADOPTION AND ADOPTION ORDERS

Introductory

Interpretation

- 4A.1.—(1) In this Part and Parts IVB and IVC, unless the context otherwise requires –
- “the 1976 Act” means the Adoption Act 1976(1);
 - “the 1978 Act” means the Adoption (Scotland) Act 1978(2);
 - “the Order of 1987” means the Adoption (Northern Ireland) Order 1987(3), and –
 - (a) a reference to an Article by number is a reference to that Article as numbered in that Order; and
 - (b) expressions which are defined in the Order of 1987 have the same meaning as in that Order;
 - “adoption agency” means a Board or a registered adoption society which is an accredited body for the purposes of the Convention(4);
 - “parental responsibility” has the same meaning as in the Order of 1995;
 - “application” means an application made under or by virtue of the Order of 1987 or under these Rules and “applicant” shall be construed accordingly;
 - “Board” means a Health and Social Services Board or, as the case may be, a Trust;
 - “CA of the receiving State” means, in relation to a Convention country(5) other than the United Kingdom, the Central Authority of the receiving State;
 - “CA of the State of origin” means, in relation to a Convention country other than the United Kingdom, the Central Authority of the State of origin;
 - “Central Authority” means the Department of Health, Social Services and Public Safety;
 - “the child” means the person whom the applicant for an adoption order or an order authorising a proposed foreign adoption proposes to adopt, or, as the case may be, the person the adoption agency proposes should be freed for adoption;
 - “Convention” means the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29th May 1993;
 - “Convention country” means any country or territory in which the Convention is in force;

(1) 1976 c. 36

(2) 1978 c. 28

(3) S.I.1987/2203 (N.I. 22) as amended by S.I.1994/429 (N.I. 2), S.I.1995/755 (N.I. 2) and 2001 c. 11 (N.I.)

(4) Section 2(3) of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001 c. 11 (N.I.) provides that a registered adoption society is an accredited body for the purposes of the Convention if its registration extends to the provision of facilities in respect of Convention adoptions and adoptions effected by Convention adoption orders

(5) The term “Convention country” is defined in Article 2(2) of the Order of 1987, as amended by section 6 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

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“Convention proceedings” means proceedings in the High Court or a county court for a Convention adoption order or in connection with a Convention adoption order or a Convention adoption(6);

“Hague Convention Regulations” means the Intercountry Adoption (Hague Convention) Regulations (Northern Ireland) 2003(7);

“interim order” means an order under Article 26;

“the Master” means the Master (Care and Protection) or, as the case may be, the chief clerk;

“medical practitioner” has the meaning assigned by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972(8);

“the Office” means the Office of Care and Protection or, where appropriate, the office of the chief clerk for the county court division in which proceedings are pending;

“order authorising a proposed foreign adoption” means an order under Article 57;

“receiving State” means the State in which it is proposed that the child will become habitually resident;

“regular armed forces of the Crown” means the Royal Navy, the Regular Armed Forces as defined by section 225 of the Army Act 1955(9), the Regular Air Force as defined by section 223 of the Air Force Act 1955(10), the Queen Alexandra’s Royal Naval Nursing Service and the Women’s Royal Naval Service;

“State of origin” means the State in which the child is habitually resident.

Proceedings

4A.2. Any hearing of an application shall be dealt with in chambers unless the court otherwise directs.

Freeing for Adoption

Commencement of proceedings under Article 17

4A.3.—(1) An application under Article 17 (freeing child for adoption with parental agreement) for an order freeing a child for adoption shall be made in Form A1 issued out of the Office.

(2) The applicants shall be the adoption agency and each parent or guardian of the child and the respondents shall be –

- (a) any Board or voluntary organisation that has parental responsibility for, is looking after, or is caring for the child;
- (b) any person (not being an applicant) liable by virtue of any order or agreement to contribute to the maintenance of the child; and
- (c) the child.

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

(4) On filing the application the applicant shall pay the appropriate fee and supply three copies of: –

(6) The terms “Convention adoption order” and “Convention adoption” are defined in Article 2(2) of the 1987 Order, as amended by section 6 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

(7) S.R. 2003 No. 16

(8) S.I. 1972/1265 (N.I. 14)

(9) 1955 c. 18

(10) 1955 c. 19

- (a) the application, together with any other documents required to be supplied under this Part, and
- (b) a report, in writing, covering all the relevant matters specified in Part I of Appendix 4.

Commencement of proceedings under Article 18

4A.4.—(1) An application under Article 18 (Freeing child for adoption without parental agreement) for an order freeing a child for adoption shall be made in Form A2 issued out of the Office.

(2) The applicant shall be the adoption agency and the respondents shall be each parent or guardian of the child and those persons prescribed by rule 4A.3(2).

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

(4) There shall be attached to the application a statement of the facts upon which the applicant intends to rely for the purpose of satisfying the court that the agreement of each parent or guardian of the child to the making of an adoption order ought to be dispensed with on a ground specified in Article 16(2).

(5) Where the applicant has been informed by a person with whom the child has been placed for adoption that he wishes his identity to remain confidential, the statement of facts supplied under paragraph (4) shall be framed in such a way as not to disclose the identity of that person.

(6) Except where the request for dispensation is based on the ground that the parent or guardian cannot be found, the Master shall, as soon as practicable, inform the parent or guardian of the request to dispense with his agreement and shall send him a copy of the statement supplied under paragraph (4).

(7) On filing the application the applicant shall pay the appropriate fee and supply three copies of: –

- (a) the application, together with any other documents required to be supplied under this Part;
- (b) a report in writing covering all the relevant matters specified in Part I of Appendix 4.
- (c) the statement of facts.

Appointment of guardian ad litem

4A.5.—(1) As soon as practicable after the application has been filed, the Master shall appoint a guardian ad litem of the child, and shall send to him a copy of the application and any documents attached thereto and of the report supplied by the applicant and that report shall be confidential.

(2) The guardian ad litem shall not be a member or employee of the applicant or any respondent body nor have been involved in the making of any arrangements for the adoption of the child.

Duties of the guardian ad litem

4A.6.—(1) The guardian ad litem shall: –

- (a) ensure, so far as is reasonably practicable, that any agreement to the making of an adoption order is given freely and unconditionally and with full understanding of what is involved;
- (b) confirm that the parent or guardian has been given an opportunity of making a declaration under Article 17(5), that he prefers not to be involved in future questions concerning the adoption of the child;
- (c) investigate all the circumstances relevant to any such agreement or declaration;

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- (d) where it is proposed to free for adoption a child whose parents were not married to each other at the time of his birth and whose father is not his guardian, take all reasonable steps to identify any person claiming to be the father in order to be able to advise the court –
 - (i) of that person's views;
 - (ii) of whether that person intends to apply for an order under Article 7(1) or 10 of the Order of 1995;
 - (iii) of any matter relevant to the determination of an application under the Order of 1995.
 - (e) 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 notify the applicant that he has done so.
- (2) With a view to safeguarding the interests of the child before the court, the guardian ad litem shall, so far as is reasonably practicable –
- (a) investigate –
 - (i) the matters alleged in the application, the report supplied by the applicant and, where appropriate, the statement of facts supplied under rule 4A.4; and
 - (ii) any other matters which appear to him to be relevant to the making of an order freeing the child for adoption;
 - (b) advise whether, in his opinion, the child should be present at the hearing of the application; and
 - (c) perform such other duties as appear to him to be necessary or as the court may direct.
- (3) 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 applicant.
- (4) The court may, at any time before the final determination of the application, require the guardian ad litem to perform such further duties as the court considers necessary.
- (5) The guardian ad litem shall attend any hearing of the application if so required by the court.
- (6) Any report made to the court under this rule shall be confidential.

Agreement

4A.7.—(1) Any document signifying the agreement of a person to the making of an adoption order shall be in Form A3, and, shall, if executed in Northern Ireland, be witnessed by a Justice of the Peace.

(2) If the document is executed in Scotland it shall be witnessed by a Justice of the Peace or a Sheriff.

(3) If the document is executed in England and Wales it shall be witnessed by a Justice of the Peace.

(4) If the document is executed outside the United Kingdom it shall be witnessed by one of the following persons –

- (a) any person for the time being authorised by law in the place where the document is executed to administer an oath for any judicial or other legal purpose;
- (b) a British consular officer;
- (c) a notary public; or
- (d) if the person executing the document is serving in any of the regular armed forces of the Crown, an officer holding a commission in any of those forces.

(5) If the document is executed by a person outside Northern Ireland before the commencement of the proceedings it shall be filed with the application.

Notice of hearing

4A.8.—(1) Within 14 days of being notified by the guardian ad litem that he has made his report to the court, the applicant 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 (5) and rule 4A.10(3).

(3) The Master shall inform the applicant and the guardian ad litem of the date and time fixed for the hearing and the applicant shall serve notice of the hearing on all the parties in Form A4.

(4) Any one who wishes to object to the making of an order freeing the child for adoption 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 A5.

(5) 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

4A.9.—(1) Where the Master receives notice of objection under rule 4A.8 he shall notify the judge, the applicant or his 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 or grounds for objection made by him or his legal representative on his behalf, may give such directions or make such orders as appear just.

The hearing

4A.10.—(1) Subject to any directions given under rule 4A.9(2), on the hearing of the application, any person upon whom notice is required to be served under rule 4A.8 may attend and be heard on the question whether an order freeing the child for adoption should be made.

(2) Any member or employee of a Board, adoption agency or other body which is a party to the proceedings may address the court if he is duly authorised in that behalf.

(3) Where the court has been informed by the applicant that the child has been placed with a person (whether alone or jointly with another) for adoption and that person wishes his identity to remain confidential, the proceedings shall be conducted with a view to securing that any such person is not seen by or made known to any respondent who is not already aware of his identity, except with his consent.

(4) Evidence may be given orally or by affidavit, but where the evidence of any person is on affidavit, the judge may require such person to give oral evidence.

(5) Subject to paragraph (6), the judge shall not make an order freeing the child for adoption except after the personal attendance before him of the child and of a representative of the applicant duly authorised in that behalf.

(6) If there are special circumstances which, having regard to the report of the guardian ad litem, appear to the court to make the attendance of the child unnecessary, the court may direct that the child need not attend.

(7) 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.

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Proof of identity of child, etc.

4A.11.—(1) Where the child who is the subject of the proceedings is identified in the application 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.

(2) Where the child has previously been adopted, paragraph (1) shall have effect as if for the references to a birth certificate and to the Register of Births there were substituted respectively references to a certified copy of an entry in the Adopted Children Register and to that Register.

(3) Where the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined may be specified in the order freeing the child for adoption as the date of his birth.

(4) Where the place of birth of the child cannot be proved to the satisfaction of the court but it appears probable that the child was born in the United Kingdom, the Channel Islands or the Isle of Man, he may be treated as having been born in the registration district in which the court sits, and in any other case (where the country of birth is not proved) the particulars of the country of birth may be omitted from the order freeing the child for adoption.

Application for revocation of order freeing a child for adoption

4A.12.—(1) An application under Article 20(1) for an order revoking an order freeing the child for adoption shall be made in Form A6.

(2) Notice of proceedings in Form A7 shall be served by the applicant on all parties and on any adoption agency which has parental responsibility for the child by virtue of Articles 17, 18 or 21, sections 18 or 21 of the 1976 Act or sections 18 or 21 of the 1978 Act save that notice shall not be served on a party to the proceedings who was joined as a party by virtue of rule 4A.3(2)(a).

(3) As soon as practicable after receipt of the application, the Master shall list the case for hearing by a judge and shall appoint a guardian ad litem of the child in accordance with rule 4A.5 and shall send to him a copy of the application and any documents attached thereto.

(4) The guardian ad litem shall have the same duties as if he had been appointed under rule 4A.5 but as if in that rule: –

- (a) the reference to an order freeing the child for adoption was a reference to the revocation of an order freeing the child for adoption; and
- (b) each reference to the report supplied by the applicant was omitted.

Substitution of one adoption agency for another

4A.13.—(1) An application under Article 21 shall be made in Form A8.

(2) Notice of any order made under Article 21 shall be sent by the court to the court which made the order under Articles 17, 18 or 21 (if a different court), or under section 18 or 21 of the 1976 Act or under sections 18 or 21 of the 1978 Act and to any former parent of the child.

Adoption Orders

Application for a serial number

4A.14. Any person proposing to apply to the court for an adoption order who wishes his identity to be kept confidential, may, before commencing proceedings, apply to the Master for a serial number to be assigned to him for the purpose of identifying him in the proposed proceedings and a number shall be assigned to him accordingly.

Commencement of proceedings

4A.15.—(1) An application for an adoption order shall be made in Form A9 issued out of the Office.

(2) The respondents shall be –

- (a) each parent or guardian (not being an applicant) of the child, unless the child is free for adoption;
- (b) any adoption agency having parental responsibility for the child by virtue of Articles 17, 18 or 21, or under sections 18 or 21 of the 1976 Act or sections 18 or 21 of the 1978 Act;
- (c) any adoption agency named in the application or in any form of agreement to the making of the adoption order as having taken part in the arrangements for the adoption of the child;
- (d) any Board to whom the applicant has given notice under Article 22 of his intention to apply for an adoption order;
- (e) any Board or voluntary organisation that has parental responsibility for, is looking after, or is caring for, the child;
- (f) any person (not being an applicant) liable by virtue of any order or agreement to contribute to the maintenance of the child;
- (g) where the applicant proposes to rely on Article 15(1)(b)(ii), the spouse of the applicant; and
- (h) the child.

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

(4) Notice to the Board for the purposes of Article 22(1) may be given in Form A10.

(5) On filing the application the applicant shall pay the appropriate fee and supply three copies of –

- (a) the application, together with any other documents required to be supplied under this Part, and
- (b) where the child was not placed for adoption with the applicant by an adoption agency, save where the applicant or one of the applicants is a parent of the child, reports by a medical practitioner made not more than three months earlier on the health of the child and of each applicant, covering the matters specified in Part II of Appendix 4.

Statement of facts in dispensation cases

4A.16.—(1) Where the child is not free for adoption and the applicant intends to request the court to dispense with the agreement of a parent or guardian of the child on any of the grounds specified in Article 16(2), the request shall be included in the application and there shall be attached to the application three copies of a statement of facts on which the applicant intends to rely.

(2) Where a serial number has been assigned to the applicant under rule 4A.14 the statement of facts supplied under paragraph (1) shall be framed in such a way as not to disclose the identity of that person.

(3) Except where the request for dispensation is based on the ground that the parent or guardian cannot be found, the Master shall, as soon as practicable, inform the parent or guardian of the request to dispense with his agreement and shall send him a copy of the statement supplied under paragraph (1).

Appointment of guardian ad litem

4A.17.—(1) As soon as practicable after the application has been filed, the Master shall appoint a guardian ad litem of the child and shall send to him a copy of the application, together with any documents attached thereto.

(2) The guardian ad litem shall not be a member or employee of the applicant or any respondent body nor have been involved in the making of any arrangements for the adoption of the child.

(3) Where the child is free for adoption, the guardian ad litem shall, where practicable, be the same person who was appointed under rule 4A.5.

Duties of guardian ad litem

4A.18.—(1) With a view to safeguarding the interests of the child before the court the guardian ad litem shall –

- (a) ensure so far as is reasonably practicable that any agreement to the making of the adoption order is given freely and unconditionally and with full understanding of what is involved;
- (b) investigate all the circumstances relevant to any such agreement;
- (c) investigate so far as is reasonably practicable –
 - (i) the matters alleged in the application, any report supplied under rule 4A.15(5)(b) and, where appropriate, the statement of facts supplied under rule 4A.16;
 - (ii) any other matters which appear to him to be relevant to the making of an adoption order;
- (d) 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 notify the applicant that he has done so;
- (e) advise whether, in his opinion, the child should be present at the hearing of the application; and
- (f) perform such other duties as appear to him to be necessary or as the court may direct.

(2) Paragraphs (3) to (6) of rule 4A.6 shall apply to a guardian ad litem appointed under this rule as they apply to a guardian ad litem appointed under that rule.

Agreement

4A.19.—(1) Save with the leave of the court, any document signifying the agreement of a person to the making of the adoption order shall be in Form A11 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 4A.7(2), (3) or (4), according to the country in which it is executed.

(3) If the document is executed outside Northern Ireland before the commencement of the proceedings it shall be filed with the application.

Notice of hearing

4A.20.—(1) Within 14 days of being notified by the guardian ad litem that he has made his report to the court, the applicant 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 (7).

(3) The Master shall inform the applicant and the guardian ad litem of the date and time fixed for hearing and the applicant shall, unless he desires his identity to be kept confidential, serve notice of the hearing on all the parties in Form A12.

(4) Where the applicant desires that his identity be kept confidential he shall, in lieu of serving a notice in Form A12, serve upon the parties a notice of presentation in Form A13.

(5) If the applicant has no solicitor acting for him the notice in Form A12 or Form A13 shall be signed by the Master.

(6) Anyone wishing to object to the making of an adoption order, shall within 14 days of the date of service on him, of the notice of hearing or as the case may be the notice of presentation give the Master written notice of his intention to object in Form A14 or Form A15 as the case may be, quoting the serial number of the application.

(7) 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

4A.21.—(1) Where the Master receives notice of objection under rule 4A.20(6) he shall notify the judge, the applicant (or his 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 or grounds for objection made by him or by his legal representative on his behalf, give such directions or make such orders as appear just.

Reports by adoption agency or Board

4A.22.—(1) Where the child was placed for adoption with the applicant by an adoption agency, that agency shall supply, within six weeks of receipt of the notice of hearing under rule 4A.20, three copies of a report in writing covering the matters specified in Part I of Appendix 4.

(2) Where the child was not placed for adoption with the applicant by an adoption agency, the Board to whom the notice under Article 22 of the Order was given shall supply, within six weeks of receipt of the notice of hearing or notice of presentation under rule 4A.20, three copies of a report in writing covering the matters specified in Part I of Appendix 4.

(3) The court may request a further report under paragraph (1) or (2) and may indicate any particular matters it requires such a further report to cover.

(4) The Master shall send a copy of any report supplied under paragraph (1) or (2) to the guardian ad litem.

(5) No other person shall be supplied with a copy of any report supplied under paragraph (1) or (2) and any such report shall be confidential.

The hearing

4A.23.—(1) Subject to any directions given under rule 4A.21(2) on the hearing of the application, any person served with a notice of hearing under rule 4A.20(3) may attend and be heard on the question whether an adoption order should be made.

(2) Any member or employee of a Board, adoption agency or other body which is a party to the proceedings may address the court if he is duly authorised in that behalf.

(3) If a serial number has been assigned to the applicant under rule 4A.14 the proceedings shall be conducted with a view to securing that he is not seen or made known to any respondent who is not already aware of his identity, except with his consent.

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(4) Subject to paragraphs (5) and (7), the judge shall not make an adoption order or an interim order except after the personal attendance before him of the applicant and the child.

(5) If there are special circumstances which, having regard to the report of the guardian ad litem, appear to the court to make the attendance of the child unnecessary, the court may direct that the child need not attend.

(6) 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.

(7) In the case of an application under Article 14, the judge may in special circumstances make an adoption order or an interim order after the personal attendance of one only of the applicants, if the application is verified by an affidavit sworn by the other applicant or, if he is outside the United Kingdom, by a declaration made by him and witnessed by any of the persons specified in rule 4A.7(4).

Proof of identity of child, etc

4A.24.—(1) Where the child who is the subject of the proceedings is identified in the application 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.

(2) Where the child has previously been adopted, paragraph (1) shall have effect as if for the references to a birth certificate and to the Register of Births, there were substituted respectively references to a certified copy of an entry in the Adopted Children Register and to that Register.

(3) Subject to paragraph (5), where the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined may be specified in the adoption order as the date of his birth.

(4) Subject to paragraph (5), where the place of birth of the child cannot be proved to the satisfaction of the court but it appears probable that the child was born in the United Kingdom, the Channel Islands or the Isle of Man, he may be treated as having been born in the registration district in which the court sits, and in any other case (where the country of birth is not approved) the particulars of the country of birth may be omitted from the adoption order.

(5) Where the child is free for adoption, any order made identifying the probable date and place of birth of the child in the proceedings under Article 17 or 18 or under section 18 of the 1976 Act or section 18 of the 1978 Act shall be sufficient proof of the date and place of birth of the child in proceedings to which this rule applies.

Further proceedings after interim order

4A.25.—(1) Where an interim order is made under Article 26 and the application is postponed without a date being fixed for a further hearing, the applicant shall, at least 2 months before the expiration of the period specified in the interim order, obtain a date for the further hearing of the application from the Master, and if he fails to do so, the guardian ad litem shall obtain such a date.

(2) When the date for a further hearing is fixed the applicant shall, unless the Master otherwise directs, serve a notice in Form A12 or Form A13 of the hearing on the parties and to the guardian ad litem not less than one month before that date.

PART IVB

CONVENTION PROCEEDINGS

Introductory

4B.1. This Part shall apply to Convention proceedings and, subject to the provisions of this Part, rules 4A.2, 4A.14 to 4A.24 and Part IVC shall apply, with the necessary modifications, to Convention proceedings.

Application

4B.2.—(1) An applicant for a Convention adoption order shall state in his application that he is applying for a Convention adoption order.

(2) The application –

- (a) need not contain paragraphs corresponding to paragraph 2, 24 or 25 of Form A9, but,
- (b) shall contain the additional information required by Part III of Appendix 4.

Statement at hearing

4B.3. The requirements prescribed by regulations 19 and 30 of the Hague Convention Regulations may be established by a document executed by the applicant containing a statement to that effect attested in accordance with rule 4B.14 and such a statement shall be admissible in evidence without further proof of the signature of the applicant.

Form of consent

4B.4.—(1) Any document signifying the consent of a person to, or otherwise containing the opinion of a person on the making of, the Convention adoption order shall be in a form which complies with the internal law relating to adoption of the Convention country of which the child is a national : provided that where the court is not satisfied that a person consents with full understanding of what is involved, it may call for further evidence.

(2) A document referred to in paragraph (1) shall, if sufficiently witnessed, be admissible as evidence of the consent or opinion contained therein without further proof of the signature of the person by whom it is executed.

(3) A document referred to in paragraph (1) shall, if executed before the date of the applicant's application, be attached to that application.

Notice of hearing

4B.5.—(1) On serving notice of the hearing or notice of presentation on the parties as required under rule 4A.20, the applicant shall also serve notice on any person: –

- (a) whose consent to the making of the order is required, not being an applicant, or
- (b) who, in accordance with the internal law relating to adoption of the Convention country of which the child is a national has to be consulted about, but does not have to consent to, the adoption.

(2) Any person served or required to be served with notice under this rule shall be treated as if he had been served or was required to be served with notice under rule 4A.20.

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Application to annul a Convention adoption or Convention adoption order

4B.6.—(1) An application for an order under Article 55A(1)(11) shall be made in Form A16 issued out of the Office.

- (2) An application for an order under Article 55A(1) may be made by –
- (a) the adopter or adopters, or
 - (b) the adopted person, or
 - (c) the relevant Central Authority, or
 - (d) the adoption agency, or
 - (e) the Board to whom notice under Article 22 was given (if different), or
 - (f) the Secretary of State for the Home Department.
- (3) The Respondent shall be –
- (a) the adopted person; and
 - (b) any adopter, not being the applicant.
- (4) The court may require notice of the application to be served on such persons as it thinks fit.

Application for directions where a full adoption has not been made

- 4B.7.—(1) An application for a direction under Article 40(3A)(12) –
- (a) may be made by the adopted child, the adopter or adopters or the birth parents of the child; and
 - (b) shall be made by in Form A17.
- (2) The respondents shall be –
- (a) the adopter or adopters (if not the applicant),
 - (b) the birth parents (if not the applicant),
 - (c) the adoption agency,
 - (d) the Board to whom notice under Article 22 was given (if different),
 - (e) the Attorney General

and the court may require notice of the application to be served on such other persons as it thinks fit, including the child, having regard to the child's age and degree of maturity.

Application to declare overseas adoption invalid or determination invalid or affected

4B.8.—(1) An application for an order or decision under Article 55A(2) shall be made in Form A18 issued out of the Office.

- (2) The Respondent shall be –
- (a) the adopted person; and
 - (b) any adopter, not being the applicant.

(11) Article 55A was inserted into the Order of 1987 by virtue of section 5 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

(12) Article 40(3A) was inserted into the Order of 1987 by virtue of section 4(3) of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

Evidence in support of application

4B.9.—(1) Evidence in support of an application under Article 55A shall be given by means of an affidavit in Form A19 which shall be filed within 14 days after the issue of the application.

(2) There shall be exhibited to the affidavit a statement of facts and there shall be filed with the affidavit expert evidence of any provision of foreign law relating to adoption on which the applicant intends to rely.

(3) The court may order any deponent to give oral evidence concerning the grounds stated in, or exhibited to, his affidavit.

Notice of order made under Article 55A

4B.10.—(1) Where under Article 55A the court has ordered that an adoption be annulled or that an adoption or a determination shall cease to be valid in Northern Ireland, the Master shall serve notice of the order on the Registrar General and, where it relates to a Convention adoption order or a Convention adoption, the relevant Central Authority, and shall state in the notice –

- (a) the date of the adoption;
- (b) the name and address of the authority which granted the adoption; and
- (c) the names of the adopter or adopters and of the adopted person as given in the affidavit referred to in rule 4B.9.

Application for removal, return etc of the child in Convention proceedings

4B.11.—(1) Paragraph (2) shall apply where –

- (a) a notice under regulation 16(1) of the Hague Convention Regulations has been given but not been complied with; or
- (b) before such a notice was given an application for a Convention adoption order has been made and not disposed of.

(2) Where this paragraph applies, an application for the return of the child shall be made in writing by the Board to whom notice under Article 22 was given.

(3) The respondents shall be –

- (a) the prospective adopter or adopters,
- (b) the guardian ad litem,
- (c) the adoption agency (if different)

and the court may require notice of the application to be served on such other persons as it thinks fit, including the child, having regard to the child's age and degree of maturity.

(4) Any respondent who wishes to contest the notice shall, within 7 days of service of the notice upon him, file and serve an answer.

(5) The Master shall list the case for hearing on a date not more than 21 days from the date the application under paragraph (2) was submitted to the court.

Specific applications

4B.12.—(1) Where a Convention adoption order is to be or has been sought and has not been disposed of the applicant or proposed applicant may apply to the court for an order –

- (a) permitting the child to be known by a new surname, or
- (b) permitting the child to be removed from the United Kingdom for a period of one month or more.

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- (2) The application under paragraph (1) shall be made –
 - (a) if an application for a Convention adoption order under Article 16A(13) is pending, on notice in those proceedings; or
 - (b) if no such application is pending, by filing written application in the court.
- (3) The Master shall serve a copy of the application and a notice of the date of the hearing –
 - (a) in a case where proceedings for an adoption order are pending on all the parties to those proceedings and on the guardian ad litem;
 - (b) in any other case, on the adoption agency and the Board to whom notice under Article 22 was given.

Witnessing of documents

4B.13 A document shall be sufficiently attested for the purposes of this Part of these rules if it is witnessed by one of the following persons –

- (a) if it is executed in Northern Ireland, the guardian ad litem, a justice of the peace, any officer of the Supreme Court appointed by the Lord Chief Justice in accordance with section 112 of the Judicature (Northern Ireland) Act 1978(14);
- (b) if it is executed elsewhere, any person specified in rule 4A.7(2), (3) or (4), according to the country in which it is executed.

Service of documents

4B.14 Any document served out of the jurisdiction in a country in which English is not an official language shall be accompanied by a translation of the document in the official language of the country in which service is to be effected or, if there is more than one official language of the country, in any one of those languages which is appropriate to the place in that country where service is to be effected.

Translation of documents

4B.15 Where a translation of any document is required for the purposes of Convention proceedings, the translation shall, unless otherwise directed, be provided by the applicant.

PART IVC

MISCELLANEOUS PROCEEDINGS UNDER THE ORDER OF 1987

Application for leave of the court etc

4C.1.—(1) An application under –

- (a) Article 20(2);
- (b) Article 28(1) or (2);
- (c) Article 29(1) or (2);
- (d) Article 30(1);
- (e) Article 30(2); or

(13) Article 16A was inserted into the Order of 1987 by section 3 of the Adoption (Intercountry Aspects) Act (Northern Ireland) 2001

(14) 1978 c. 23

- (f) Article 31(2), shall be made in accordance with paragraph (2).
- (2) An application pursuant to paragraph (1) shall be made –
- (a) if an application for an adoption order or an order under Articles 17, 18 or 20 is pending, by sending a notice of application in Form A20 to the Master; or
 - (b) if no such application is pending, by sending a notice of application in Form A21 to the Master.
- (3) Subject to paragraph (5), the Master shall serve a copy of the notice of application, together with a notice of the date of hearing –
- (a) where the proceedings specified in paragraph 2(a) were pending at the time of receipt of the application or where such proceedings were commenced subsequently, on the parties to those proceedings and on the guardian ad litem;
 - (b) in any other case, on any person against whom an order is sought in the application and on the Board to whom the prospective adopter has given notice under Article 22; and
 - (c) in any case, on such other person or body, not being the child, as the court thinks fit.
- (4) 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.
- (5) The Master shall serve a copy of the written notice of objection on each person served with a copy of the application.
- (6) If in any application under this rule a serial number has been assigned to a person who has applied or who proposes to apply for an adoption order, or such a person applies to the Master in that behalf before filing the application and a serial number is assigned accordingly –
- (a) the Master shall ensure that the documents served under paragraph (3) or (5) do not disclose the identity of that person to any other party to the application under this rule who is not already aware of that person's identity, and
 - (b) the proceedings on the application under this rule shall be conducted with a view to securing that he is not seen by or made known to any party who is not already aware of his identity except with his consent.
- (7) Unless otherwise directed, any prospective adopter who is served with a copy of an application under this rule and who wishes to oppose the application shall file his application for an adoption order within 14 days or before or at the time of the hearing of the application under this rule, whichever is the earliest.
- (8) The court may at any time give directions as to the appointment of a guardian ad litem of the child.
- (9) Where an application under paragraph (1)(a), (b) or (e) is granted or an application under paragraph (1)(c) or (d) is refused, the judge may thereupon, if any application for an adoption order has been filed, treat the hearing of the application as the hearing of the application for an adoption order and refuse an adoption order accordingly.
- (10) Where an application under this rule is determined the Master shall serve notice of the effect of the determination on all the parties.

Proposed foreign adoption proceedings

- 4C.2.—(1) An application under Article 57(1) shall be in Form A9 issued out of the Office.
- (2) Subject to paragraph (3), rules 4A.14, 4A.15(2) to (5), 4A.16 to 4A.25 and this Part (except rule 4C.7(1)(e)) shall apply to an application for an order authorising a proposed foreign adoption as if such an order were an adoption order.

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(3) An applicant for an order authorising a proposed foreign adoption shall provide expert evidence of the law of adoption in the country in which he is domiciled and an affidavit as to that law sworn by such a person as is mentioned in section 114(3) of the Judicature (Northern Ireland) Act 1978⁽¹⁵⁾ (that is to say a person who is suitably qualified on the account of his knowledge or experience to give evidence as to that law) shall be admissible in evidence without notice.

Amendment and revocation of orders

4C.3.—(1) An application under Article 52 for the amendment of an adoption order or the revocation of a direction to the Registrar General, or under Article 55 for the revocation of an adoption order, 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 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

4C.4 Subject to rule 4B.14, the person effecting service of any document under Part IVA, Part IVB or this Part of these rules 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

4C.5 On the determination of proceedings to which Part IVA, Part IVB or this Part of these rules apply or on the making of an interim order, the judge may make such order as to the costs as he thinks just and, in particular, may order the applicant 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.

Notice and copies of orders etc

4C.6.—(1) In proceedings to which Part IVA, Part IVB or this Part of these rules apply orders shall be made in the form indicated in this paragraph –

<i>Description of order</i>	<i>Form</i>
(a) (a) Order under Article 17	A22
(b) (b) Order under Article 18	A23
(c) (c) Order under Article 20	A24
(d) (d) Interim order	A25
(e) (e) Order under Article 40(3A)	A26
(f) (f) Adoption order	A27
(g) (g) Convention adoption order	A27 (with the word “Convention” inserted where appropriate)

⁽¹⁵⁾ 1978 c. 23

<i>Description of order</i>	<i>Form</i>
(h) (h) Order authorising a proposed foreign adoption	A27 (with the words “order authorising a proposed foreign adoption” substituted for the words ‘adoption order’ wherever they appear)

(2) Within 7 days of the making of an order to which paragraph (1)(d), (f) or (g) applies, the Master shall send a copy of the order to the Registrar General.

(3) Where an order to which paragraph (1)(a), (b), (f) or (g) applies is made or refused or an order to which paragraph (1)(c) applies is made, the Master shall serve notice to that effect on every respondent.

(4) The Master shall serve notice of the making of an order to which paragraph (1)(a), (b), (c), (g) or (h) applies on any court in the United Kingdom which appears to him to have made any such order as is referred to in Article 12(3) (orders relating to parental responsibility for the child).

(5) A copy of any order may be supplied to the Registrar General at his request.

(6) A copy of any order may be supplied to the applicant.

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

(8) Within 7 days of the making of an order to annul a Convention adoption order or a Convention adoption, the proper officer shall send a copy of the order to the applicant, every respondent, the relevant Central Authority and the Registrar General.

Custody, inspection and disclosure of documents and information

4C.7.—(1) All documents relating to proceedings under the Order of 1987 (or under any previous enactments relating to adoption) 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 an adoption agency, a Board or a guardian ad litem may inspect, for the purposes of the hearing, that part of any such report which refers to him, subject to any direction given by the court that –

(a) no part of one or any of the reports shall be revealed to that party, or

(b) the part of one or any of the reports referring to that party shall be revealed only to that party’s legal advisers, or

(c) the whole or any other part or any of the reports shall be revealed to that party.

(3) Any person who obtains any information in the course of, or relating to, any proceedings mentioned in paragraph (1) 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 Northern Ireland or not) having power to determine adoptions and related matters, for the purpose of the discharge of its duties in that behalf, or

(ii) by the Registrar General, or a person authorised in writing by him, where the information requested relates only to the identity of any adoption agency which made the arrangements for placing the child for adoption in the home of the applicants, and of any Board which was notified of the applicant’s intention to apply for an adoption order in respect of the child, or

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

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(4) Save as required or authorised by a provision of any enactment or of these Rules or with the leave of the court, no document or order held by or lodged with the court in proceedings under the Order of 1987 (or under any previous enactment relating to adoption) 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.

Transfer to county court

4C.8 Where the Judge presiding in the High Court is of the opinion that, by reason of any special circumstances, an application under the Order of 1987 should be dealt with in the county court, he may by order transfer the matter to a county court and any matter so transferred shall be heard and determined in accordance with these rules as if it has been commenced in that court.