
STATUTORY INSTRUMENTS

2005 No. 2795

The Family Procedure (Adoption) Rules 2005

PART 5

**PROCEDURE FOR APPLICATIONS IN ADOPTION,
PLACEMENT AND RELATED PROCEEDINGS**

Application of this Part

- 22.** The rules in this Part apply to the following proceedings—
- (a) adoption proceedings;
 - (b) placement proceedings; or
 - (c) proceedings for—
 - (i) the making of a contact order under section 26;
 - (ii) the variation or revocation of a contact order under section 27;
 - (iii) an order giving permission to change a child's surname or remove a child from the United Kingdom under section 28(2) and (3);
 - (iv) a section 84 order;
 - (v) a section 88 direction;
 - (vi) a section 89 order; or
 - (vii) any other order that may be referred to in a practice direction.

(Parts 9 and 10 set out the procedure for making an application in proceedings not dealt with in this Part.)

Who the parties are

23.—(1) In relation to the proceedings set out in column 1 of each of the following tables, column 2 of Table 1 sets out who the application may be made by and column 2 of Table 2 sets out who the respondents to those proceedings will be.

Table 1

Proceedings for	Applicants
An adoption order (section 46)	The prospective adopters (section 50 and 51).
A section 84 order	The prospective adopters asking for parental responsibility prior to adoption abroad.
A placement order (section 21)	A local authority (section 22).
An order varying a placement order (section 23)	The joint application of the local authority authorised by the placement order to place

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Proceedings for	Applicants
	the child for adoption and the local authority which is to be substituted for that authority (section 23).
An order revoking a placement order (section 24)	The child;
	the local authority authorised to place the child for adoption; or
	where the child is not placed for adoption by the authority, any other person who has the permission of the court to apply (section 24).
A contact order (section 26)	The child;
	the adoption agency;
	any parent, guardian or relative;
	any person in whose favour there was provision for contact under the 1989 Act which ceased to have effect on an adoption agency being authorised to place a child for adoption, or placing a child for adoption who is less than six weeks old (section 26(1));
	a person in whose favour there was a residence order in force immediately before the adoption agency was authorised to place the child for adoption or placed the child for adoption at a time when he was less than six weeks old;
	a person who by virtue of an order made in the exercise of the High Court's inherent jurisdiction with respect to children had care of the child immediately before that time; or
	any person who has the permission of the court to make the application (section 26).
An order varying or revoking a contact order (section 27)	The child;
	the adoption agency; or
	any person named in the contact order (section 27(1)).
An order permitting the child's name to be changed or the removal of the child from the United Kingdom (section 28(2) and (3))	Any person including the adoption agency or the local authority authorised to place, or which has placed, the child for adoption (section 28(2)).
A section 88 direction	The adopted child;

Proceedings for	Applicants
A section 89 order	<p>the adopters;</p> <p>any parent; or</p> <p>any other person.</p> <p>The adopters;</p> <p>the adopted person;</p> <p>any parent;</p> <p>the relevant Central Authority;</p> <p>the adoption agency;</p> <p>the local authority to whom notice under section 44 (notice of intention to adopt or apply for a section 84 order) has been given;</p> <p>the Secretary of State for the Home Department; or</p> <p>any other person.</p>

Table 2

Proceedings for	Respondents
An adoption order (section 46) or a section 84 order	<p>Each parent who has parental responsibility for the child or guardian of the child unless he has given notice under section 20(4)(a) (statement of wish not to be informed of any application for an adoption order) which has effect;</p> <p>any person in whose favour there is provision for contact;</p> <p>any adoption agency having parental responsibility for the child under section 25;</p> <p>any adoption agency which has taken part at any stage in the arrangements for adoption of the child;</p> <p>any local authority to whom notice under section 44 (notice of intention to adopt or apply for a section 84 order) has been given;</p> <p>any local authority or voluntary organisation which has parental responsibility for, is looking after, or is caring for, the child; and</p>

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Proceedings for	Respondents
	<p>the child where—</p> <p>permission has been granted to a parent or guardian to oppose the making of the adoption order (section 47(3) or 47(5));</p> <p>he opposes the making of an adoption order;</p> <p>a children and family reporter recommends that it is in the best interests of the child to be a party to the proceedings and that recommendation is accepted by the court;</p> <p>he is already an adopted child;</p> <p>any party to the proceedings or the child is opposed to the arrangements for allowing any person contact with the child, or a person not being allowed contact with the child after the making of the adoption order;</p> <p>the application is for a Convention adoption order or a section 84 order;</p> <p>he has been brought into the United Kingdom in the circumstances where section 83(1) applies (restriction on bringing children in);</p> <p>the application is for an adoption order other than a Convention adoption order and the prospective adopters intend the child to live in a country or territory outside the British Islands after the making of the adoption order; or</p> <ul style="list-style-type: none"> • the prospective adopters are relatives of the child.
<p>A placement order (section 21)</p>	<p>Each parent who has parental responsibility for the child or guardian of the child;</p> <p>any person in whose favour an order under the 1989 Act is in force in relation to the child;</p> <p>any adoption agency or voluntary organisation which has parental responsibility for, is looking after, or is caring for, the child;</p> <p>the child; and</p> <p>the parties or any persons who are or have been parties to proceedings for a care order in respect of the child where those proceedings</p>

Proceedings for	Respondents
An order varying a placement order (section 23)	have led to the application for the placement order. The parties to the proceedings leading to the placement order which it is sought to have varied except the child who was the subject of those proceedings; and any person in whose favour there is provision for contact.
An order revoking a placement order (section 24)	The parties to the proceedings leading to the placement order which it is sought to have revoked; and any person in whose favour there is provision for contact.
A contact order (section 26)	The adoption agency authorised to place the child for adoption or which has placed the child for adoption; the person with whom the child lives or is to live; each parent with parental responsibility for the child or guardian of the child; and the child where— the adoption agency authorised to place the child for adoption or which has placed the child for adoption or a parent with parental responsibility for the child opposes the making of the contact order under section 26; he opposes the making of the contact order under section 26; existing provision for contact is to be revoked; relatives of the child do not agree to the arrangements for allowing any person contact with the child, or a person not being allowed contact with the child; or he is suffering or is at risk of suffering harm within the meaning of the 1989 Act.
An order varying or revoking a contact order (section 27)	The parties to the proceedings leading to the contact order which it is sought to have varied or revoked; and

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Proceedings for	Respondents
An order permitting the child’s name to be changed or the removal of the child from the United Kingdom (section 28(2) and (3))	<p>any person named in the contact order.</p> <p>The parties to proceedings leading to any placement order;</p> <p>the adoption agency authorised to place the child for adoption or which has placed the child for adoption;</p> <p>any prospective adopters with whom the child is living; and</p> <p>each parent with parental responsibility for the child or guardian of the child.</p>
A section 88 direction	<p>The adopters;</p> <p>the parents;</p> <p>the adoption agency;</p> <p>the local authority to whom notice under section 44 (notice of intention to apply for a section 84 order) has been given; and</p> <p>the Attorney-General.</p>
A section 89 order	<p>The adopters;</p> <p>the parents;</p> <p>the adoption agency; and</p> <p>the local authority to whom notice under section 44 (notice of intention to adopt or apply for a section 84 order) has been given.</p>

(2) The court may at any time direct that a child, who is not already a respondent to proceedings, be made a respondent to proceedings where—

- (a) the child—
 - (i) wishes to make an application; or
 - (ii) has evidence to give to the court or a legal submission to make which has not been given or made by any other party; or
- (b) there are other special circumstances.

(3) The court may at any time direct that—

- (a) any other person or body be made a respondent to proceedings; or
- (b) a respondent be removed.

(4) If the court makes a direction for the addition or removal of a party, it may give consequential directions about—

- (a) serving a copy of the application form on any new respondent;

- (b) serving relevant documents on the new party; and
- (c) the management of the proceedings.

What the court or a court officer will do when the application has been issued

24.—(1) As soon as practicable after the application has been issued in proceedings—

- (a) the court will—
 - (i) if section 48(1) (restrictions on making adoption orders) applies, consider whether it is proper to hear the application;
 - (ii) subject to paragraph (4), set a date for the first directions hearing;
 - (iii) appoint a children’s guardian in accordance with rule 59;
 - (iv) appoint a reporting officer in accordance with rule 69;
 - (v) consider whether a report relating to the welfare of the child is required, and if so, request such a report in accordance with rule 73;
 - (vi) set a date for the hearing of the application; and
 - (vii) do anything else that may be set out in a practice direction; and
- (b) a court officer will—
 - (i) subject to receiving confirmation in accordance with paragraph (2)(b)(ii), give notice of any directions hearing set by the court to the parties and to any children’s guardian, reporting officer or children and family reporter;
 - (ii) serve a copy of the application form (but, subject to sub-paragraphs (iii) and (iv), not the documents attached to it) on the persons referred to in the relevant practice direction;
 - (iii) send a copy of the certified copy of the entry in the register of live-births or Adopted Children Register and any health report attached to an application for an adoption order to—
 - (aa) any children’s guardian, reporting officer or children and family reporter; and
 - (bb) the local authority to whom notice under section 44 (notice of intention to adopt or apply for a section 84 order) has been given;
 - (iv) if notice under rule 27 has been given (request to dispense with consent of parent or guardian), in accordance with that rule inform the parent or guardian of the request and send a copy of the statement of facts to—
 - (aa) the parent or guardian;
 - (bb) any children’s guardian, reporting officer or children and family reporter;
 - (cc) any local authority to whom notice under section 44 (notice of intention to adopt or apply for a section 84 order) has been given; and
 - (dd) any adoption agency which has placed the child for adoption; and
 - (v) do anything else that may be set out in a practice direction.

(2) In addition to the matters referred to in paragraph (1), as soon as practicable after an application for an adoption order or a section 84 order has been issued the court or the court officer will—

- (a) where the child is not placed for adoption by an adoption agency—
 - (i) ask either the Service or the Assembly to file any relevant form of consent to an adoption order or a section 84 order; and

- (ii) ask the local authority to prepare a report on the suitability of the prospective adopters if one has not already been prepared; and
- (b) where the child is placed for adoption by an adoption agency, ask the adoption agency to—
 - (i) file any relevant form of consent to—
 - (aa) the child being placed for adoption;
 - (bb) an adoption order;
 - (cc) a future adoption order under section 20; or
 - (dd) a section 84 order;
 - (ii) confirm whether a statement has been made under section 20(4)(a) (statement of wish not to be informed of any application for an adoption order) and if so, to file that statement;
 - (iii) file any statement made under section 20(4)(b) (withdrawal of wish not to be informed of any application for an adoption order) as soon as it is received by the adoption agency; and
 - (iv) prepare a report on the suitability of the prospective adopters if one has not already been prepared.
- (3) In addition to the matters referred to in paragraph (1), as soon as practicable after an application for a placement order has been issued—
 - (a) the court will consider whether a report giving the local authority’s reasons for placing the child for adoption is required, and if so, will direct the local authority to prepare such a report; and
 - (b) the court or the court officer will ask either the Service or the Assembly to file any form of consent to the child being placed for adoption.
- (4) Where it considers it appropriate the court may, instead of setting a date for a first directions hearing, give the directions provided for by rule 26.

Date for first directions hearing

25. Unless the court directs otherwise, the first directions hearing must be within 4 weeks beginning with the date on which the application is issued.

The first directions hearing

- 26.—(1)** At the first directions hearing in the proceedings the court will—
- (a) fix a timetable for the filing of—
 - (i) any report relating to the suitability of the applicants to adopt a child;
 - (ii) any report from the local authority;
 - (iii) any report from a children’s guardian, reporting officer or children and family reporter;
 - (iv) if a statement of facts has been filed, any amended statement of facts;
 - (v) any other evidence, and
 give directions relating to the reports and other evidence;
 - (b) consider whether an alternative dispute resolution procedure is appropriate and, if so, give directions relating to the use of such procedure;

- (c) consider whether the child or any other person should be a party to the proceedings and, if so, give directions in accordance with rule 23(2) or (3) joining that child or person as a party;
 - (d) give directions relating to the appointment of a litigation friend for any patient or non-subject child unless a litigation friend has already been appointed;
 - (e) consider whether the case needs to be transferred to another court and, if so, give directions to transfer the proceedings to another court in accordance with any order made by the Lord Chancellor under Part I of Schedule 11 to the 1989 Act;
 - (f) give directions about—
 - (i) tracing parents or any other person the court considers to be relevant to the proceedings;
 - (ii) service of documents;
 - (iii) subject to paragraph (2), disclosure as soon as possible of information and evidence to the parties; and
 - (iv) the final hearing; and
- (2) Rule 77(2) applies to any direction given under paragraph (1)(f)(iii) as it applies to a direction given under rule 77(1).
- (3) In addition to the matters referred to in paragraph (1), the court will give any of the directions listed in the relevant practice direction in proceedings for—
- (a) a Convention adoption order;
 - (b) a section 84 order;
 - (c) a section 88 direction;
 - (d) a section 89 order; or
 - (e) an adoption order where section 83(1) applies (restriction on bringing children in).
- (4) The parties or their legal representatives must attend the first directions hearing unless the court directs otherwise.
- (5) Directions may also be given at any stage in the proceedings—
- (a) of the court’s own initiative; or
 - (b) on the application of a party or any children’s guardian or, where the direction concerns a report by a reporting officer or children and family reporter, the reporting officer or children and family reporter.
- (6) For the purposes of giving directions or for such purposes as the court directs—
- (a) the court may set a date for a further directions hearing or other hearing; and
 - (b) the court officer will give notice of any date so fixed to the parties and to any children’s guardian, reporting officer or children and family reporter.
- (7) After the first directions hearing the court will monitor compliance with the court’s timetable and directions by the parties.

Requesting the court to dispense with the consent of any parent or guardian

27.—(1) The following paragraphs apply where the applicant wants to ask the court to dispense with the consent of any parent or guardian of a child to—

- (a) the child being placed for adoption;
- (b) the making of an adoption order except a Convention adoption order; or
- (c) the making of a section 84 order.

- (2) The applicant requesting the court to dispense with the consent must—
- (a) give notice of the request in the application form or at any later stage by filing a written request setting out the reasons for the request; and
 - (b) file a statement of facts setting out a summary of the history of the case and any other facts to satisfy the court that—
 - (i) the parent or guardian cannot be found or is incapable of giving consent; or
 - (ii) the welfare of the child requires the consent to be dispensed with.
- (3) If a serial number has been assigned to the applicant under rule 20, the statement of facts supplied under paragraph (2)(b) must be framed so that it does not disclose the identity of the applicant.
- (4) On receipt of the notice of the request—
- (a) a court officer will—
 - (i) inform the parent or guardian of the request; and
 - (ii) send a copy of the statement of facts filed in accordance with paragraph (2)(b) to—
 - (aa) the parent or guardian;
 - (bb) any children’s guardian, reporting officer or children and family reporter;
 - (cc) any local authority to whom notice under section 44 (notice of intention to adopt or apply for a section 84 order) has been given; and
 - (dd) any adoption agency which has placed the child for adoption; and
 - (b) if the applicant considers that the parent or guardian is incapable of giving consent, the court will consider whether to—
 - (i) appoint a litigation friend for the parent or guardian under rule 55(1); or
 - (ii) give directions for an application to be made under rule 55(3), unless a litigation friend is already appointed for that parent or guardian.

Consent

- 28.**—(1) Consent of any parent or guardian of a child—
- (a) under section 19, to the child being placed for adoption; and
 - (b) under section 20, to the making of a future adoption order
- must be given in the form required by the relevant practice direction or a form to the like effect.
- (2) Subject to paragraph (3), consent—
- (a) to the making of an adoption order; or
 - (b) to the making of a section 84 order,
- may be given in the form required by the relevant practice direction or a form to the like effect.
- (3) Any consent to a Convention adoption order must be in a form which complies with the internal law relating to adoption of the Convention country of which the child is habitually resident.
- (4) Any form of consent executed in Scotland must be witnessed by a Justice of the Peace or a Sheriff.
- (5) Any form of consent executed in Northern Ireland must be witnessed by a Justice of the Peace.
- (6) Any form of consent executed outside the United Kingdom must be witnessed by—
- (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.

Reports by the adoption agency or local authority

29.—(1) The adoption agency or local authority must file the report on the suitability of the applicant to adopt a child within the timetable fixed by the court.

(2) A local authority that is directed to prepare a report on the placement of the child for adoption must file that report within the timetable fixed by the court.

(3) The reports must cover the matters specified in the relevant practice direction.

(4) The court may at any stage request a further report or ask the adoption agency or local authority to assist the court in any other manner.

(5) A court officer will send a copy of any report referred to in this rule to any children’s guardian, reporting officer or children and family reporter.

(6) Any report to the court under this rule will be confidential.

Health reports

30.—(1) Reports by a registered medical practitioner (“health reports”) made not more than three months earlier on the health of the child and of each applicant must be attached to an application for an adoption order or a section 84 order except where—

- (a) the child was placed for adoption with the applicant by an adoption agency;
- (b) the applicant or one of the applicants is a parent of the child; or
- (c) the applicant is the partner of a parent of the child.

(2) Health reports must contain the matters set out in the relevant practice direction.

(3) Any health report will be confidential.

Notice of final hearing

31. A court officer will give notice to the parties, any children’s guardian, reporting officer or children and family reporter and to any other person that may be referred to in a practice direction—

- (a) of the date and place where the application will be heard; and
- (b) of the fact that, unless the person wishes or the court requires, the person need not attend.

The final hearing

32.—(1) Any person who has been given notice in accordance with rule 31 may attend the final hearing and, subject to paragraph (2), be heard on the question of whether an order should be made.

(2) A person whose application for the permission of the court to oppose the making of an adoption order under section 47(3) or (5) has been refused is not entitled to be heard on the question of whether an order should be made.

(3) Any member or employee of a party which is a local authority, adoption agency or other body may address the court at the final hearing if he is authorised to do so.

(4) The court may direct that any person must attend a final hearing.

(5) Paragraphs (6) and (7) apply to—

- (a) an adoption order;
- (b) a section 84 order; or
- (c) a section 89 order.

(6) Subject to paragraphs (7) and (8), the court cannot make an order unless the applicant and the child personally attend the final hearing.

(7) The court may direct that the applicant or the child need not attend the final hearing.

(8) In a case of adoption by a couple⁽¹⁾ under section 50 the court may make an adoption order after personal attendance of one only of the applicants if there are special circumstances.

(9) The court cannot make a placement order unless a legal representative of the applicant attends the final hearing.

Proof of identity of the child

33.—(1) Unless the contrary is shown, the child referred to in the application will be deemed to be the child referred to in the form of consent—

- (a) to the child being placed for adoption;
- (b) to the making of an adoption order; or
- (c) to the making of a section 84 order

where the conditions in paragraph (2) apply.

(2) The conditions are—

- (a) the application identifies the child by reference to a full certified copy of an entry in the registers of live-births;
- (b) the form of consent identifies the child by reference to a full certified copy of an entry in the registers of live-births attached to the form; and
- (c) the copy of the entry in the registers of live-births referred to in sub-paragraph (a) is the same or relates to the same entry in the registers of live-births as the copy of the entry in the registers of live-births attached to the form of consent.

(3) Where the child is already an adopted child paragraph (2) will have effect as if for the references to the registers of live-births there were substituted references to the Adopted Children Register.

(4) Subject to paragraph (7), where the precise date of the child's birth is not proved to the satisfaction of the court, the court will determine the probable date of birth.

(5) The probable date of the child's birth may be specified in the placement order, adoption order or section 84 order as the date of his birth.

(6) Subject to paragraph (7), where the child's place of birth cannot be proved to the satisfaction of the court—

- (a) he may be treated as having been born in the registration district of the court where it is probable that the child may have been born in—
 - (i) the United Kingdom;
 - (ii) the Channel Islands; or
 - (iii) the Isle of Man; or
- (b) in any other case, the particulars of the country of birth may be omitted from the placement order, adoption order or section 84 order.

(1) A couple is defined in section 144(4) of the Adoption and Children Act 2002.

(7) A placement order identifying the probable date and place of birth of the child will be sufficient proof of the date and place of birth of the child in adoption proceedings and proceedings for a section 84 order.