

1978 No. 128

SUPREME COURT, NORTHERN IRELAND**PROCEDURE****Rules of the Supreme Court (Northern Ireland)
(Convention Adoptions etc.) 1978***Made 4th May 1978**Coming into operation in accordance with rule 3**To be laid before Parliament*

We, the Supreme Court Rules Committee, being the authority having for the time being power under section 7 of the Northern Ireland Act 1962(a) to make, amend or revoke rules regulating the practice and procedure of the Supreme Court of Judicature of Northern Ireland, hereby exercise those powers and all other powers enabling us in that behalf as follows:—

1. Order 73 of the Rules of the Supreme Court (Northern Ireland) 1936(b) shall be amended as follows:—

(1) For the title there shall be substituted the title “Proceedings under the Guardianship of Infants Act 1886, the Adoption Act (Northern Ireland) 1967 and the Adoption (Hague Convention) Act (Northern Ireland) 1969”;

(2) Part II shall have effect subject to the amendments specified in Schedule 1 hereto;

(3) After Part II there shall be inserted the Part III set out in Schedule 2 hereto.

2. In Appendix L to the Rules of the Supreme Court for Form 33 there shall be substituted the Form 33 set out in Schedule 3 hereto and after Form 40 there shall be inserted the Forms 40A, 40B and 40C therein set out.

3. These rules may be cited as the Rules of the Supreme Court (Northern Ireland) (Convention Adoptions etc.) 1978 and shall come into operation on the day appointed for the coming into operation of section 1 of the Adoption (Hague Convention) Act (Northern Ireland) 1969(c).

Dated 4th May 1978.

(Signed) *Robert Lowry*
John MacDermott
Donald Murray
J. B. E. Hutton
E. M. Doris

(a) 1962 c. 30

(b) S.R. & O. 1936 No. 70 (II, p. 2559)

(c) 1969 c. 22 (N.I.)

SCHEDULE 1

**Amendments to Part II of Order 73 of the Rules of the
Supreme Court**

1. In rule 15(3) for the reference to the welfare authority there shall be substituted a reference to the Health and Social Services Board in whose area the applicant is resident and Form 32 shall be modified accordingly.

2. In rule 17(1) for the words "the welfare authority" there shall be substituted the words "the Health and Social Services Board" and for the word "authority" there shall be substituted the word "Board".

3. In rule 20(1) after the word "shall" there shall be inserted the words ", subject to paragraph (3)".

4. At the end of rule 20 there shall be added the following paragraph:
"(3) Notwithstanding paragraph (1) and rule 29(4), where the applicant is not represented by a solicitor, the statement in Form 33 may, instead of being exhibited to an affidavit, be verified by a certificate signed by an officer of the Health and Social Services Board in whose area the applicant is resident who has investigated the circumstances of the applicant and—

(a) any document referred to in that statement which under these rules would otherwise be required to be exhibited to or filed together with the affidavit shall be attached to the statement;

(b) in this Order for any reference to the affidavit there shall be substituted a reference to the statement verified by such a certificate and for the reference to the documents exhibited to the affidavit there shall be substituted a reference to the documents attached to the statement."

5. In rule 27 for paragraph (3) there shall be substituted the following paragraphs:

"(3) Except where the applicant or one of the applicants is the mother or father of the infant or the infant is over the limit of compulsory school age, the guardian ad litem shall obtain a medical report on the health of the infant which may be in Form 36.

(3A) The guardian ad litem shall ascertain whether the infant is able to understand the nature of the adoption order and, if he is, whether he wishes to be adopted by the applicant."

SCHEDULE 2

**Part III to be inserted in Order 73 of the Rules of the
Supreme Court**

PART III

ARRANGEMENT OF RULES IN THIS PART

GENERAL

39. Interpretation of this Part
40. Application of Part II of this Order to convention proceedings
41. Adaptation of certain references in Part II of this Order and in Appendix L
42. Additional information to be included in statement exhibited to applicant's affidavit in rule 20
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ADDITIONAL PROVISIONS FOR CASES WHERE QUALIFIED INFANT IS NOT A
UNITED KINGDOM NATIONAL

46. Scope of rules 47 to 50
47. Evidence as to foreign law relating to consents and consultations
48. Form of consent
49. Notice of hearing
50. Proper officer to receive opinions on adoption

PROCEEDINGS UNDER SECTION 6 OF THE ACT OF 1969

51. Application to annul or revoke adoption
52. Application to declare adoption invalid or determination invalid or affected
53. Evidence in support of application
54. Guardian ad litem
55. Notice of order made under section 6 of the Act of 1969

SUPPLEMENTARY

56. Evidence as to specified or notified provisions
57. Interim order
58. Attestation of documents
59. Service of documents
60. Translation of documents

GENERAL

Interpretation of this Part

39.—(1) In this Part, unless the context otherwise requires—

(a) “the Act of 1967” means the Adoption Act (Northern Ireland) 1967; “the Act of 1969” means the Adoption (Hague Convention) Act (Northern Ireland) 1969;

“applicant” means an applicant for a convention adoption order;

“convention adoption order” has the same meaning as in the Act of 1969;

“convention proceedings” means proceedings in the High Court under the Act of 1969;

and expressions used in the Act of 1969 have the same meaning as in that Act;

(b) reference to a rule by number is to a rule as numbered in this Order;

(c) reference to a form by number is to a form as numbered in Appendix L or to a form to the like effect with such variations as the circumstances may require.

(2) Any reference in this Part to the nationality of a person who is not solely a United Kingdom national means that person’s nationality as determined in accordance with section 9 of the Act of 1969.

Application of Part II of and Appendix L to this Order to convention proceedings

40. Part II of this Order (other than rules 24 and 37) and the forms in Appendix L to these rules shall apply, subject to the following provisions of this Part, to convention proceedings.

Adaptation of certain references in Part II of this Order and in Appendix L

41. In Part II of this Order or in Appendix L to these rules there shall, in their application to convention proceedings, be substituted, as the context may require, for any reference to an adoption order a reference to a convention adoption order and for any reference to the Act of 1967 a reference to the Act of 1969.

Additional information to be included in statement exhibited to applicant’s affidavit under rule 20

42. In convention proceedings in the statement in Form 33 paragraphs 3 and 21 shall be omitted and the paragraphs set out in Part IV of that Form shall be included.

Evidence as to nationality

43.—(1) Any document (or copy of a document) which is to be used for the purposes of satisfying the court as to the nationality of the applicant or of the qualified infant shall be exhibited to the affidavit referred to in rule 20(1).

(2) Where the applicant for a convention adoption order claims that, for the purposes of section 1(3) of the Act of 1969, he or the qualified infant is a national of a convention country he shall file with his affidavit expert evidence of the law of that country relating to nationality applicable to that person.

Statement at hearing

44. Except where it is established by oral evidence that immediately before the order is made the conditions set out in section 1 or in section 3(1), (2) or (3)(a) of the Act of 1969 are satisfied, there shall be supplied at the hearing a document executed by the applicant containing a statement to that effect and any such document shall, if sufficiently attested, be admissible in evidence without further proof of the signature of the applicant.

Orders

45. The Chief Clerk shall, in addition to complying with rule 31, within seven days after a convention adoption order has been drawn up, by notice to the Registrar General request him to inform the designated authorities of any convention country—

- (a) of which the infant is a national;
- (b) in which the infant was born;
- (c) in which the applicant habitually resides or in which the applicants habitually reside;
- (d) of which the applicant is a national or of which the applicants are nationals.

ADDITIONAL PROVISIONS FOR CASES WHERE QUALIFIED INFANT IS NOT A
UNITED KINGDOM NATIONAL

Scope of rules 47 to 50

46. Rules 47 to 50 shall apply to any case where the qualified infant is not a United Kingdom national.

Evidence as to foreign law relating to consents and consultations

47. The applicant shall file, with the affidavit referred to in rule 20, expert evidence as to the provisions relating to consents and consultations of the internal law relating to adoption of the convention country of which the infant is a national.

Form of consent etc.

48.—(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 infant 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 attested, be admissible as evidence of the consent or other 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 statement referred to in rule 42, be attached to the statement.

(4) The provisions of Part II (other than rule 21) relating to consent to adoption including paragraphs 7 to 12 of Form 33 shall apply with the necessary modifications to take account of the provisions of section 3(3)(a) of the Act of 1969.

Notice of hearing

49.—(1) When serving notice of the hearing under rule 28(3), the applicant shall also serve notice of the hearing on any person whose consent to the making of the order is required and who is not an applicant.

(2) The applicant shall also serve notice of the hearing on any person who, in accordance with the internal law relating to adoption of the convention country of which the infant is a national, has to be consulted about, but does not have to consent to, the adoption.

(3) 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 28(3).

Proper officer to receive opinions on adoption

50. The Chief Clerk shall be the proper officer of the court for the purposes of section 3(4)(a) of the Act of 1969 (officer to whom any person whose consent is required under or who is consulted in pursuance of the internal law relating to adoption of the convention country of which the qualified infant is a national may communicate his opinion of the adoption).

PROCEEDINGS UNDER SECTION 6 OF THE ACT OF 1969

Application to annul or revoke adoption

51.—(1) An application under section 6(1) or (2) of the Act of 1969 shall be made by originating summons in Form 40A; and the person taking out the summons shall be described as the applicant and the adopted person and any adopter, not being the applicant, shall be described as a respondent.

(2) An application under section 6(1) of the Act of 1969 shall not, except with the leave of the court, be made later than two years after the date of the adoption to which it relates.

Application to declare adoption invalid or determination invalid or affected

52. An application under section 6(3) of the Act of 1969 shall be made by originating summons in Form 40B, and the person taking out the summons shall be described as the applicant and the adopted person and any adopter, not being the applicant, shall be described as a respondent.

Evidence in support of application

53.—(1) Evidence in support of an application under section 6 of the Act of 1969 shall be given by means of an affidavit in Form 40C which shall be filed within 14 days after the issue of the originating summons.

(2) Where the application is made under section 6(1) or (3) of the Act of 1969 there shall be exhibited to the affidavit a statement of the facts and, subject to rule 56, there shall be filed with the affidavit expert evidence of any provisions 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 facts stated in, or exhibited to, his affidavit.

Guardian ad litem

54. Where the adopted person is under the age of 18 on the date on which an application under section 6 of the Act of 1969 is made, rule 17 shall apply to the application as it applies to an application for an adoption order under the Act of 1967.

Notice of order made under section 6 of the Act of 1969

55.—(1) Where under section 6 of the Act of 1969 the court has ordered that an adoption be annulled or revoked or that an adoption or determination shall cease to be valid in Northern Ireland, the Chief Clerk shall serve notice of the order on the Registrar General specifying—

- (a) the date of the adoption;
- (b) the name and address of the authority which granted the adoption;
- (c) the names of the adopter or adopters and of the adopted person as given in the affidavit referred to in rule 53.

(2) A notice under paragraph (1) in respect of the annulment or revocation of an adoption shall request the Registrar General to send the information to the designated authorities of any convention country—

- (a) in which the adoption was granted;
- (b) of which the adopted person is a national;
- (c) in which the adopted person was born.

(3) Where under section 3(1) of the Legitimacy Act (Northern Ireland) 1961(d) the court has ordered that a convention adoption order be revoked; a notice to the Registrar General under section 3(2) of that Act shall request the Registrar General to send the information to the designated authorities of any convention country—

- (a) of which the adopted person was a national;
- (b) in which the adopted person was born.

SUPPLEMENTARY

Evidence as to specified or notified provisions

56.—(1) Where the applicant seeks to satisfy the court as to any question which has arisen or is likely to arise concerning a provision—

- (a) of the internal law of the convention country of which the applicant or any other person is or was a national;
- (b) which has been specified in an order—
 - (i) under section 24(8) of the Children Act 1975(e) (“a specified provision”), or
 - (ii) under section 7(4) of the Adoption Act 1968(f) (a “notified provision”),

expert evidence as to the specified or notified provision shall, where practicable, be exhibited to the applicant's affidavit.

(2) Paragraph (1) shall apply, in the case of a person who is or was a United Kingdom national, for the purposes of a notified provision in respect of a specified country as it applies for the purposes of a notified provision in respect of a convention country of which a person is or was a national.

(d) 1961 c. 5 (N.I.)
(e) 1975 c. 72

(f) 1968 c. 53

Interim order

57. Where the applicant is a national or both the applicants are nationals of a convention country, the court shall take account of any specified provision (as defined in section 24(8) of the Children Act 1975) of the internal law of that country before any decision is made to postpone the determination of the application and to make an interim order.

Attestation of documents

58. A document shall be sufficiently attested for the purposes of this Part of this Order if it is attested by any of the following persons:—

- (a) if it is executed in the United Kingdom—
 - (i) a justice of the peace; or
 - (ii) if it is executed in England and Wales an officer of a county court appointed for the purposes of section 87 of the County Courts Act 1959(g), or a justice's clerk within the meaning of section 21 of the Justices of the Peace Act 1949(h); or
 - (iii) if it is executed in Northern Ireland an officer of the county court referred to in section 142 of the County Courts Act (Northern Ireland) 1959(i) or any officer of the Supreme Court appointed by the Lord Chief Justice for the purposes of attesting such document; or
 - (iv) if it is executed in Scotland, the sheriff;
- (b) if it is executed elsewhere, any person mentioned in rule 21(2).

Service of documents

59.—(1) Any document to be served for the purposes of these rules may be served out of the jurisdiction without the leave of the court.

(2) 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

60. 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.

(g) 1959 c. 22
(h) 1949 c. 101

(i) 1959 c. 25 (N.I.)

SCHEDULE 3

Forms to be substituted in or inserted in Appendix L to the
Rules of the Supreme Court

FORM No. 33

STATEMENT IN SUPPORT OF APPLICATION FOR AN ADOPTION
ORDER, PROVISIONAL ADOPTION ORDER OR CONVENTION
ADOPTION ORDER*[Heading as in Form 31]*

I, the undersigned / We, the undersigned
being the applicant(s) for an adoption order [*or* provisional adoption order]
[*or* convention adoption order] in respect of the infant
[¹] under the Adoption Act (Northern Ireland) 1967 [*or* the Adoption (Hague
Convention) Act (Northern Ireland) 1969] STATE as follows:

PART I

Particulars of the applicant(s)

1. Name of [first] applicant in full
Address [²]
Occupation
Date of birth
Relationship (if any) to the infant
- [2. Name of second applicant in full
Address [²]
Occupation
Date of birth
Relationship (if any) to the infant .]
3. I am/We are resident and domiciled in Northern Ireland.
[*or* I am/We are domiciled in England/Scotland/Wales/Isle of Man/the
Channel Island of _____ and resident in Northern Ireland.]
[*or* I am/We are domiciled in Northern Ireland and ordinarily resident at
[³].]
4. I am unmarried/a widow/widower/I am married to
of _____ [*or* We are married to each other and are the
persons described as _____ and _____ in
the marriage certificate (or other evidence of marriage) attached to this
statement.]
- [5. The consent of my husband/wife to the making of an adoption order [*or*
provisional adoption order] in pursuance of my application is attached to this
statement [⁴].
[*or* I request the Judge to dispense with the consent of my husband/wife on
the ground that _____ [⁵].]
- [6. A certificate as to my/our health, signed by a registered medical practi-
tioner is attached to this statement [⁶].]

PART II

Particulars of the infant

7. The infant is of the _____ sex and is not and has not been married. He/She was born on the _____ day of _____ 19____ and is the person to whom the birth certificate/adoption certificate ^[7] attached to this statement relates [or was born on or about the _____ day of 19____ in _____]. ^[8]

8. The infant is the child/adopted child ^[9] of ^[10] _____ [or deceased] whose last known address was _____ and ^[11] _____ whose last known address was _____ [or deceased].

[9. The guardian(s) of the infant is/are _____ of _____ [and of _____].] ^[12]

10. The document(s) signifying the consent of the said _____ to the making of an adoption order [or provisional adoption order] in pursuance of my/our application is attached to this statement ^[13] [or I/We request the Judge to dispense with the consent of _____ on the ground that _____]. ^[14]

[11. The _____ Area Health and Social Services Board [or the Managers of the _____ Training School] has/have the rights and powers of a parent of the infant.] ^[15]

[12. _____ of _____ is liable by virtue of an order made by the _____ court at _____ on the _____ day of _____ 19____, [or by an agreement dated the _____ day of _____ 19____,] to contribute to the maintenance of the infant.] ^[16]

13. If an adoption order [or provisional adoption order] is made in pursuance of this application the infant is to be known by the following names—

Surname

Other names

PART III

General

14. The infant was received into my/our care on the _____ day of _____ 19____, and has been continuously in my/our care and possession since that date.

[15. I/We notified the _____ Area Health and Social Services Board on the _____ day of _____ 19____ of my/our intention to apply for an adoption order [or provisional adoption order] in respect of the infant.] ^[17]

16. I have not made/Neither of us has made a previous application for an adoption order [or provisional adoption order] in respect of the infant [except an application No. _____ made to the _____ Court at

_____ which was heard on the _____ day of _____ 19 _____ and was dealt with as follows _____]. [18]

17. I/We have not received or given any reward or payment for, or in consideration of, the adoption of the infant or for giving consent to the making of an order on this application [except as follows _____]. [19]

18. As far as I/we know, no person or body has taken part in the arrangements for placing the infant in my/our care and possession [except _____]. [20]

[19. For the purposes of this application reference may be made to _____ of _____]. [21]

[20. I/We desire that my/our identity and that of the infant should be kept confidential and the serial number of this application is _____]. [22]

[21. I/We intend to adopt the infant under the law of or within _____ [23] and for that purpose I/we desire to remove the infant from Northern Ireland.] [24]

[PART IV

Additional particulars to be added where application is made for a convention adoption order under the Adoption (Hague Convention) Act (Northern Ireland) 1969

22. The infant is a qualified infant within the meaning of section 1(3) of the Adoption (Hague Convention) Act (Northern Ireland) 1969 because—

(a) it is a United Kingdom national [or a national of _____ which is a convention country [25] [26] [27]]; and

(b) habitually resides at _____ [in Northern Ireland] [a specified country [28]] [or a convention country].

23. We are qualified spouses within the meaning of section 1(3) of the Adoption (Hague Convention) Act (Northern Ireland) 1969 because—

(a) the first applicant named in paragraph 1 is a United Kingdom national [or a national of _____ which is a convention country [25] [27]]; and

(b) the second applicant named in paragraph 2 is a United Kingdom national [or a national of _____ which is a convention country] and we habitually reside in Northern Ireland.

[or 23. We are qualified spouses within the meaning of section 1(3) of the Adoption (Hague Convention) Act (Northern Ireland) 1969 because we are both United Kingdom nationals [25] [27] ; and—

(a) the first applicant named in paragraph 1 is habitually resident at _____ which is in [Northern Ireland] [a specified country [28]] [or a convention country]; and

(b) the second applicant named in paragraph 2 is habitually resident at _____ which is in [Northern Ireland] [a specified country] [or a convention country].]

[or 23. I am a qualified person within the meaning of section 1(3) of the Adoption (Hague Convention) Act (Northern Ireland) 1969 because I am a United Kingdom national [or a national of a convention country ^[25] ^[27]] and habitually reside at which is in Northern Ireland.]

[or 23. I am a qualified person within the meaning of section 1(3) of the Adoption (Hague Convention) Act (Northern Ireland) 1969 because I am a United Kingdom national ^[25] and habitually reside at which is [in Northern Ireland] [a specified country ^[28]] [or a convention country].];

[24. We are both [or I am], accordingly, nationals of the same [or a national of a] convention country, namely and there are no specified provisions ^[29] in respect of that country [or there are no relevant specified provisions in respect of that country because
1.1].

I/We certify that the information given by me/us in the foregoing statement is true and correct to the best of my/our knowledge, information and belief.

Dated

Signed

Applicant(s)

[I certify that the person(s) whose signature(s) appear(s) above is/are known to me and that I believe his/her/their certificate to be true.

Dated

Signed

(Rank) being an officer of the Area Health and Social Services Board who has investigated the circumstances of the applicant ^[30]]

NOTES:

[1] Enter the first name(s) and surname by which the infant was known before being placed for adoption. Where the infant has previously been adopted enter the names shown in the certified copy of the entry in the Adopted Children Register.

[2] Insert the applicant's present address in Northern Ireland.

[3] Where the applicant(s) is/are not ordinarily resident in Northern Ireland enter the address at which the applicant(s) is/are ordinarily resident.

[4] This entry should be deleted if the application is made jointly by husband and wife or the applicant is unmarried.

[5] The consent of the applicant's spouse may be dispensed with if the Court is satisfied that he or she cannot be found or is incapable of giving his or her consent or that the spouses have separated or are living apart and the separation is likely to be permanent.

[6] A separate medical certificate is required in respect of each applicant. There is an official form (Form No. 35) which may be used for this purpose. No certificate, however, need be supplied if the applicant, or one of the applicants, is the father or mother of the infant or the infant has reached the upper limit of compulsory school age.

[7] If the infant has previously been adopted, a certified copy of the entry in the Adopted Children Register should be supplied and not a certified copy of the original entry in the Register of Births.

[8] Where a certificate is not supplied, enter the place (including country) of birth, if known.

[9] If the infant has previously been adopted, give the names of his adoptive parents and not those of his natural parents.

[10] Enter mother's name.

[11] Enter father's name.

[12] Guardian means a person appointed by deed or will in accordance with the provisions of the Guardianship of Infants Act 1886, or by a court of competent jurisdiction, to be a guardian.

[13] Enter the names of each parent or guardian of the infant. For meaning of "guardian" see note [12] above. "Parent" does not include the putative father of an illegitimate child.

[14] The consent of a parent or guardian may be dispensed with if the Court is satisfied that the person whose consent is required has abandoned, neglected or persistently ill-treated the infant, or has persistently failed without reasonable cause to discharge the obligations of a parent or guardian, or cannot be found, or is incapable of giving his consent or is withholding his consent unreasonably, or in any other case is a person whose consent ought in the opinion of the Court to be dispensed with.

[15] This entry should be deleted except where a Health and Social Services Board has the powers and rights of a parent of the infant by virtue of section 104 of the Children and Young Persons Act (Northern Ireland) 1968 or the managers of a Training School have such powers and rights under paragraph 14(1) of Schedule 5 to that Act.

[16] This entry should be deleted except where some person or body is liable to maintain the infant under a Court order or agreement.

[17] Notice does not have to be given if the applicant or one of the applicants is a parent of the infant or if at the time of the hearing the infant will have reached the upper limit of compulsory school age.

[18] The Court cannot proceed with the application if a previous application made by the same applicant in respect of the said infant has been heard and dismissed on the merits, unless there has been a substantial change in the circumstances since the previous application.

[19] Any such payment is illegal except payment to an adoption society or Health and Social Services Board in respect of their expenses incurred in connection with the adoption.

[20] Enter the name of the Health and Social Services Board, adoption society or individual who has taken part in the arrangements for placing the infant in the care and possession of the applicant with a view to his adoption.

[21] Where the applicant, or one of the applicants, is the parent of the infant or a relative as defined by section 46(1) of the Adoption Act (Northern Ireland) 1967 no referee need be named.

[22] If the applicant wishes his identity, or that of the infant, to be kept confidential the serial number obtained under Order 73 rule 16 of the Rules of the Supreme Court 1936 should be given; otherwise this entry should be deleted.

[23] Where the application is for a provisional adoption order insert the country in which the applicant is domiciled. The applicant must provide evidence of the law of adoption of that country. For this purpose the Judge may accept an affidavit as to that law, sworn by a person who is conversant with it and who practises, or has practised, as a barrister or advocate in that country or is a duly accredited representative of the Government of that country in the United Kingdom. Any such affidavit must be filed with this statement.

[24] This entry should be deleted except where the application is for a provisional adoption order.

[25] Documentary evidence of nationality should be attached to the statement. Where the child or applicant is a national of a convention country, evidence as to the law of the country relating to nationality applicable to that person should be supplied.

[26] Where the infant is not a United Kingdom national, evidence as to the provisions relating to consents and consultations of the internal law relating to adoption of the convention country of which the infant is a national should be supplied.

[27] Any accompanying affidavit on foreign law must be filed with the statement and sworn by a person who is suitably qualified on account of his knowledge or experience to give evidence as to the law concerned. A convention country is any country excluding Great Britain or a specified country for the time being designated by order under section 11(1) of the Adoption Act 1968 as a country in which the 1965 Hague Convention on the Adoption of Children is in force.

[28] "Specified country" was defined by section 12 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 as meaning Great Britain and any other country other than Northern Ireland which is a specified country for the purposes of any corresponding provision of the Adoption Act 1968. See now the definition of "British territory" in section 107(1) of the Children Act 1975 as meaning any of the following countries:—

The United Kingdom, the Channel Islands, the Isle of Man and a colony, being a country designated for the purpose by the Secretary of State or, if no country is so designated, any of those countries.

[29] Section 3(1) of the Adoption (Hague Convention) Act (Northern Ireland) 1969 refers to a provision specified in an order made under section 3(1) of the Adoption Act, 1968. Section 3(1) of the 1968 Act was re-enacted by section 24(8) of the Children Act 1975. "Specified provision" means a provision specified in an order of the Secretary of State as one notified to the Government of the United Kingdom in pursuance of the provisions of the Convention which relate to prohibitions on an adoption contained in the national law of the convention country in question.

[30] This certificate is required only where the applicant is not represented by a solicitor. See rule 20(3) which permits the statement, instead of being exhibited to an affidavit, to be verified by the certificate of an officer of the Health and Social Services Board in whose area the applicant is resident and who has investigated his circumstances.

FORM NO. 40A

**ORIGINATING SUMMONS FOR ANNULMENT OR REVOCATION
UNDER SECTION 6 OF ADOPTION (HAGUE CONVENTION) ACT
(NORTHERN IRELAND) 1969 OF AN ADOPTION** ^{[1] [2] [3]}

19 No.

In the High Court of Justice in Northern Ireland

IN THE MATTER OF
and^[4] an infantIN THE MATTER OF the Adoption (Hague Convention) Act (Northern Ireland)
1969.

Let _____ of _____ within ten
days after service of this summons, cause an appearance to be entered for him
to this summons which is issued on the application of _____ ^{[1] [2]}
of _____ for an order:—

1. That the adoption which was authorised _____ ^[5]
on the _____ day of _____ 19 _____ at _____
by which _____ [and _____]
was [or were] authorised to adopt the said _____ be annulled
[or revoked].

2. That the leave of the court be granted for the purpose of making this
application out of time _____ ^[3].

Dated this _____ day of _____ 19 _____

This summons was taken out by
of _____
solicitor for the applicant.

The respondent may appear hereto by entering appearance either personally or by solicitor at the Central Office, Royal Courts of Justice, Belfast, BT1 3JF.

If the respondent does not enter appearance within the time and at the place above-mentioned, such order will be made and proceedings taken as the Judge may think just and expedient.

[1] This form is for use when the adoption is to be annulled or revoked under section 6(1) or 6(2) of the Adoption (Hague Convention) Act (Northern Ireland) 1969.

[2] An application may not be made unless either the adopter or both the adopters, as the case may be, or the adopted person habitually resides in Northern Ireland immediately before the application is made. See section 7(2) of the Adoption (Hague Convention) Act (Northern Ireland) 1969.

[3] Except with the leave of the court, an application to annul an adoption may not be made later than 2 years after the date of the adoption to which it relates. See rule 51(2) of Order 73.

[4] Enter the full names by which adopted person has been known since the adoption.

[5] Enter description and address of authority by which adoption was authorised.

FORM No. 40B

**ORIGINATING SUMMONS FOR ORDER THAT A FOREIGN
ADOPTION OR A DETERMINATION CEASE TO BE VALID
OR THAT A DETERMINATION HAS BEEN AFFECTED BY
A SUBSEQUENT DETERMINATION ^[1]**

19 No.

In the High Court of Justice in Northern Ireland

IN THE MATTER OF
and

an infant

IN THE MATTER OF the Adoption (Hague Convention) Act (Northern Ireland)
1969.

Let _____ of _____ within ten
days after service of this summons, cause an appearance to be entered for him
to this summons which is issued upon the application of _____^[1]
of _____ for an order:—

1. That a foreign adoption ^[2] which was authorised on the _____ day
of _____ 19 _____ at _____ by which
[and _____] were authorised to adopt the said
do cease to be valid in Northern Ireland.

[or 2. That a determination made by an authority of a convention
country [or a specified country] to authorise [or review the authorisation of]
a foreign convention adoption [or a specified order] do cease to be valid in
Northern Ireland ^[3] ^[4] ^[5].]

[or 3. That a determination made by an authority of a convention
country [or a specified country] to give [or review] a decision revoking or
annulling a foreign convention adoption, a specified order or a convention
adoption order to cease to be valid in Northern Ireland ^[3] ^[4] ^[5].]

[or 4. Deciding the extent, if any, to which a determination mentioned in
paragraph 2 [or 3] above has been affected by a subsequent determination.]

This summons was taken out by
of _____
solicitor for the applicant.

The respondent may appear hereto by entering appearance either per-
sonally or by a solicitor at the Central Office, Royal Courts of Justice, Belfast,
BT1 3JF.

If the respondent does not enter appearance within the time and the place
above-mentioned, such order will be made and proceedings taken as the Judge
may think just and expedient.

[1] This form is principally for use if the applicant claims that the adoption or
determination is contrary to public policy or that the authority which purported to
authorise the adoption or make the determination was not competent to entertain
the case. The applicant should delete the paragraphs which are not relevant.

[2] A foreign adoption is one specified in an order made under section 4(3) of the Adoption Act 1968. See Adoption (Designation of Overseas Adoptions) Order 1973 S.I. 1973/19.

[3] A convention country means a country (excluding Northern Ireland and a specified country) for the time being designated by an order made under section 11(1) of the Adoption Act 1968 as a country in which the 1965 Hague Convention on the Adoption of Children is in force. A specified country was defined by section 12 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 as meaning Great Britain and any country other than Northern Ireland which is a specified country for the purposes of any corresponding provisions of the Adoption Act 1968. See section 11(1) of that Act which defines "specified country" for the purposes of any provision of that Act as meaning Northern Ireland, any of the Channel Islands, the Isle of Man and a colony, being a country designated for the purposes of that provision by order of the Secretary of State or, if no country is so designated, any of those countries. The provision corresponding to section 6 of the Adoption (Hague Convention) Act (Northern Ireland) 1969 is section 6 of the Adoption Act 1968.

[4] A foreign convention adoption order means a foreign adoption of a description designated by an order made under section 4(3) of the Adoption Act 1968 as that of an adoption regulated by the Convention.

[5] A specified order means an adoption order made under any enactment in force in a specified country and corresponding to section 1 of the Adoption (Hague Convention) Act (Northern Ireland) 1969.

FORM No. 40C

AFFIDAVIT IN SUPPORT OF APPLICATION UNDER SECTION 6 OF ADOPTION (HAGUE CONVENTION) ACT (NORTHERN IRELAND) 1969

19 No.

In the High Court of Justice in Northern Ireland

IN THE MATTER OF
and

[1] an infant

IN THE MATTER OF the Adoption (Hague Convention) Act (Northern Ireland) 1969.

I/We _____ of
hereby make oath and say as follows:—

1. That the following particulars set out in this affidavit in support of an application under section [6(1)] [or 6(2)] [or 6(3)] of the Adoption (Hague Convention) Act (Northern Ireland) 1969 are true.

2. Name of [first] adopter in full
Address

[3. Name of second adopter in full
Address

4. Name of adopted person in full

[5. The said _____ [2] [and the
said _____] [3] habitually reside in
Northern Ireland.] [4]

6. The adopted person is of the _____ sex, is a national of
born at _____ on the
day of _____ 19

7. On the _____ day of _____ 19 _____ the said
[and _____] were
authorised to adopt the said _____ by
at _____ [5] and those persons are the persons to
whom the certified copy of an entry in a public register (or other evidence of
adoption [6]) which is exhibited to this affidavit relates.

[8. At the time the adoption was authorised the said _____ [7]
was a national of _____ and resided in _____
[the said _____ [8] was a national of _____
and resided in _____] and the adopted person was a
national of _____ and resided in _____] [9]

[9. For other applications details of the marriage or, as appropriate, of the determination or determinations should be given and any documentary evidence supplied.]

[10. A statement of the facts is exhibited to this affidavit ^[10] ^[11] .]

Sworn etc.

[1] Enter the name(s) by which the adopted person has been known since the adoption.

[2] Enter the name(s) of either the adopter(s) or the adopted person. No application may be made to the court under section 6(1) or 6(2) of the Adoption (Hague Convention) Act (Northern Ireland) 1969 unless the adopter or, as the case may be, both adopters or the adopted person habitually reside in Northern Ireland immediately before the application is made.

[3] Delete unless both the adopter(s) and the adopted person habitually reside in Northern Ireland.

[4] This paragraph is not required for applications made under section 6(3) of the Adoption (Hague Convention) Act (Northern Ireland) 1969.

[5] Enter the description and full address of the authority which authorised the adoption.

[6] The Adoption (Designation of Overseas Adoptions) Order 1973 provides that evidence of the adoption may be given either by a certified copy of an entry in a public register relating to adoptions or by a certificate that the adoption has been effected signed by a person who is authorised by the law of the country concerned to do so.

[7] Enter the name of the first adopter.

[8] Enter the name of the second adopter if applicable.

[9] This paragraph should be completed where the application is made under section 6(1).

[10] A statement of facts is not required for an application to revoke a foreign convention adoption under section 6(2) of the Adoption (Hague Convention) Act (N.I.) 1969.

[11] Expert evidence as to the notified provisions may be necessary. In that or any other case where the applicant intends to rely on any provision of foreign law relating to adoption, any accompanying affidavit thereon must be sworn by a person who is suitably qualified on account of his knowledge or experience to give evidence as to the law concerned.

EXPLANATORY NOTE

(This note is not part of the rules but is intended to indicate their general purport.)

These rules amend Part II of Order 73 of the Rules of the Supreme Court (Northern Ireland) 1936 to provide that, where the applicant for an adoption order under the Adoption Act (Northern Ireland) 1967 is not represented by a solicitor, the statement which would otherwise be exhibited to the affidavit in support of the application may, instead, be verified by an officer of the Health and Social Services Board in whose area the applicant resides and, secondly, to remove the requirement that a medical report on the health of the infant be obtained by the guardian ad litem where the applicant or one of the applicants is the mother or father of the infant or the infant is over the limit of compulsory school age.

The rules also add Part II to Order 73 to provide for the procedure under the Adoption (Hague Convention) Act (Northern Ireland) 1969.

Part III applies Part II of Order 73 with certain modifications to proceedings under the 1969 Act.

Rules 40 to 50 of the Order provide for the procedure upon an application for a convention adoption order within the meaning of that Act.

Rules 51 to 55 provide for the procedure upon an application under section 6 of the 1969 Act to annul or revoke a convention adoption as well as the procedure upon an application for an order that a foreign adoption (a foreign adoption specified by an order under section 4(3) of the Adoption Act 1968) or that a determination by, inter alia, an authority of a convention country in relation to a foreign convention adoption or a convention adoption order shall cease to be valid in Northern Ireland.