

2002 No. 158

MAGISTRATES' COURTS

**Magistrates' Courts (Declarations of Parentage) Rules
(Northern Ireland) 2002**

Made 19th April 2002

Coming into operation 20th May 2002

The Lord Chancellor, in exercise of the powers conferred on him by Article 13 of the Magistrates' Courts (Northern Ireland) Order 1981(a), on the advice of the Magistrates' Courts Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following Rules:—

Citation and commencement

1. These Rules may be cited as the Magistrates' Courts (Declarations of Parentage) Rules (Northern Ireland) 2002 and shall come into operation on 20th May 2002.
2. These Rules shall apply to proceedings commenced on or after 20th May 2002.

Interpretation

3. In these Rules—
 - (a) “the Allocation Order” means the Declarations of Parentage (Allocation of Proceedings) Order (Northern Ireland) 2002(b);
 - (b) “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday which is, or is to be observed as, a bank holiday in Northern Ireland under the Banking and Financial Dealings Act 1971(c);
 - (c) “document exchange” means any document exchange for the time being approved by the Lord Chancellor;
 - (d) “family care centre” shall be construed in accordance with Article 3 of the Allocation Order;
 - (e) “file” means deposit with the clerk of petty sessions;
 - (f) “first class post” means first-class post which has been pre-paid or in respect of which pre-payment is not required;
 - (g) “the Order” means the Matrimonial and Family Proceedings (Northern Ireland) Order 1989(d);
 - (h) “parties” means the applicant and respondent; and
 - (i) any reference to a Form is a reference to the Form in the Schedule to these Rules.
4. The Magistrates' Courts Rules (Northern Ireland) 1984(e) shall have effect subject to the provisions of these Rules.

Application for declaration of parentage

5.—(1) An application by way of complaint to a justice of the peace or clerk of petty sessions for a declaration of parentage under Article 31B of the Order(f) shall be made in Form FL1 and shall be supported by a statement which is signed and declared to be true. Provided that if the applicant is under the age of 18, the statement shall, unless otherwise directed, be made by his next friend.

(a) S.I. 1981/1675 (N.I. 26)
(b) S.R. 2002 No. 119
(c) 1971 c. 80
(d) S.I. 1989/677 (N.I. 4)
(e) S.R. 1984 No. 225
(f) S.I. 1989/677 (N.I. 4) Article 31B was inserted by Section 66 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

(2) An applicant shall file the documents referred to in paragraph (3) together with sufficient copies for one to be served, not less than 21 days prior to the date fixed for hearing, on each respondent.

(3) The documents to be filed under paragraph (2) are—

(a) any summons issued in consequence of the application, which shall be in Form FL2; and

(b) Form FL1 and the supporting statement; and

(c) where available to the applicant, a certified copy of the entry in the Register of Births relating to the birth of the person whose parentage is in issue.

(4) A statement under paragraph (1) may contain statements of information or belief with the sources and grounds thereof.

(5) At the same time as complying with paragraph (2) the applicant shall give notice of the proceedings in Form FL3 to the Crown Solicitor on behalf of the Attorney General and the Crown Solicitor shall notify the clerk of petty sessions within 14 days of such notice if the Attorney General intends to intervene in the proceedings.

(6) A copy of Form FL3 shall, at least 7 days before the hearing of the application, be filed with the clerk of petty sessions and shall be endorsed with the date upon which and the manner in which service was effected on the Crown Solicitor.

Withdrawal

6.—(1) An application may be withdrawn only with leave of the court.

(2) Subject to paragraph (3), a person seeking leave to withdraw an application shall file and serve on the parties and the Crown Solicitor a written request for leave setting out the reasons for the request.

(3) The request under paragraph (2) may be made orally to the court if the parties are present.

(4) Upon receipt of a written request under paragraph (2), the court shall—

(a) if—

(i) the parties consent in writing, and

(ii) the court thinks fit,

grant the request, in which case the clerk of petty sessions shall notify the parties and the Crown Solicitor of the granting of the request; or

(b) fix a date for the hearing of the request and the clerk of petty sessions shall give at least 7 days' notice to the parties and the Crown Solicitor of the date so fixed.

Acknowledgement of application

7. Within 14 days of service of the summons in Form FL2 the respondent shall file and serve on the parties an acknowledgement of the application in Form FL4.

Intervention by the Attorney General

8. The Attorney General, in deciding whether it is necessary or expedient to intervene in the proceedings may have a search made for and may inspect and obtain a copy of any document filed in the court offices which relates to any other family proceedings referred to in the proceedings.

9. The clerk of petty sessions shall send a copy of the application and every document accompanying it and of any answer to the Crown Solicitor if he has notified the court that the Attorney General wishes to intervene in the proceedings.

Directions

10.—(1) After the expiration of the time limited for the filing of an acknowledgement of the application, the court may issue directions for the conduct of the proceedings, including directions as to any other persons who should be made respondents to the application or given notice of the proceedings.

(2) When giving directions in accordance with paragraph (1) the court shall consider whether it is desirable that the Attorney General should argue before it any question relating

to the proceedings, and, if it does so consider and the Attorney General agrees to argue that question,—

- (i) the clerk of petty sessions shall send a copy of the application and every document accompanying it and of any acknowledgement to the Attorney General;
 - (ii) the Attorney General shall not file an answer, but shall file, and serve on all parties to the proceedings, a summary of his argument.
- (3) Any person given notice of proceedings pursuant to directions given in accordance with paragraph (1), shall within 21 days after service of the notice upon him, be entitled to file a request in Form FL5 that he be joined as a party.
- (4) The Attorney General may file an answer to the application within 21 days after directions have been given in accordance with paragraph (1) and no directions for the hearing shall be given until that period and the period referred to in paragraph (3) have expired.

Parties

11. On considering a request under rule 10(3), the court shall—

- (a) grant the application without a hearing or representations, whereupon the clerk of petty sessions shall give written notification of that decision to the parties, the person making the request and the Crown Solicitor; or
- (b) order that a date be fixed for consideration of the request, whereupon the clerk of petty sessions shall give notice in writing of the date so fixed to the parties, the person making the request and the Crown Solicitor.

Transfer of proceedings

12. Where the court receives a request in writing from a party that the proceedings be transferred to a family care centre or High Court in accordance with the Allocation Order it shall issue an order in Form FL6 or certificate in Form FL7, as the case may be.

13. A copy of the order issued under rule 12 shall be sent by the clerk of petty sessions to—

- (a) the parties;
- (b) the Crown Solicitor; and
- (c) the chief clerk of the family care centre or the Master (Probate and Matrimonial), as the case may be.

Declaration of parentage

14. A declaration made in accordance with Article 31B of the Order shall be in Form FL8 and shall be served on the parties to the proceedings and, where appropriate, the Crown Solicitor.

15. Within 21 days of a declaration being made, the clerk of petty sessions, who shall be the prescribed officer for the purposes of Article 31B of the Order, shall send a copy of the declaration and the application in Form FL1 to the Registrar General.

Service

16.—(1) Rules 11 and 13 of the Magistrates' Courts Rules (Northern Ireland) 1984 shall apply to service of a summons under these Rules.

(2) Service of any other document under these Rules may be effected—

- (a) if the person to be served is not known by the person serving to be acting by solicitor—
 - (i) by delivering it to him personally; or
 - (ii) by delivering it at, or by sending it by first-class post to, his residence or his last known residence; or
- (b) if the person to be served is known by the person serving to be acting by solicitor—
 - (i) by delivering the document at, or sending it by first-class post to, the solicitor's address for service; or

- (ii) where the solicitor's address for service includes a numbered box at a document exchange, by leaving the document at that document exchange or at a document exchange which transmits documents on every business day to that document exchange; or
 - (iii) by sending a legible copy of the document by facsimile transmission to the solicitor's office.
- (3) A document shall, unless the contrary is proved, be deemed to have been served—
 - (a) in the case of service by first-class post, on the second business day after posting; and
 - (b) in the case of service in accordance with paragraph 2(b)(ii), on the second business day after the day on which it is left at the document exchange.
- (4) Where a child is a party to any proceedings under Article 31B of the Order and is required by these Rules to serve a document, service shall be effected by—
 - (a) the solicitor acting for the child; or
 - (b) where there is no such solicitor, the clerk of petty sessions.
- (5) Service of any document on a child shall, subject to any direction of the court, be effected by service—
 - (a) on the solicitor acting for the child; or
 - (b) where there is no such solicitor, on the child, with leave of the court.
- (6) Where the court refuses leave under paragraph (5)(b), a direction shall be given under paragraph (7).
- (7) Where these Rules require a document to be served, the court may direct that—
 - (a) the requirement shall not apply; or
 - (b) the time specified by the Rules for complying with the requirement be abridged to such an extent as may be specified in the direction; or
 - (c) service shall be effected in such manner as may be specified in the direction.

Dated 19th April 2002

Irvine of Lairg, C.

SCHEDULE

Rule 3(i)

FORM FL1

Rule 5(1)

**APPLICATION FOR A DECLARATION OF PARENTAGE UNDER ARTICLE 31B OF
THE MATRIMONIAL AND FAMILY PROCEEDINGS (NORTHERN IRELAND)
ORDER 1989**

**MAGISTRATES' COURTS (DECLARATIONS OF PARENTAGE) RULES
(NORTHERN IRELAND) 2002**

of Family Proceedings Court at
Applicant

of County Court Division of
Respondent

1. About you (the Applicant)

State

- your title (Mr, Mrs etc) full name, sex, date and place of birth and address
- your solicitor's name, address, reference, telephone, FAX and DX numbers.

If you are not the person whose parentage is in issue or an acknowledged or alleged parent of that person, state what your interest in the case is, or that the application relates to the Child Support (Northern Ireland) Order 1991 and is brought by the Department or the person with care.

2. About the other people in the case

(1) State, so far as you know them, the full name, the place and date of birth and the address of the following persons (unless you are that person):

- the person whose parentage is in issue
- the person whose parenthood is in issue
- any person who is acknowledged to be the father or mother of the person whose parentage is in issue.

(2) If the person whose parentage is in issue or the person whose parenthood is in issue is known by a name other than that which appears in the entry relating to his birth in the Register of Births, state that name

(3) If the mother, or alleged mother, of the person whose parentage is in issue has been known by different names at times before the date of the presentation of the application state (if you know it) her full name at the date of—

- (i) her birth;
- (ii) her first marriage;
- (iii) the birth of the person whose parentage is in issue; and
- (iv) her most recent marriage.

(4) Give particulars of every other person whose interest may be affected by the proceedings and his relationship to the person whose parentage is in issue.

3. Your reason(s) for applying

State the grounds on which you are relying and all other relevant facts which you allege justify the making of the declaration.

4. Other proceedings

State whether there are or have been any other proceedings in any court, tribunal or authority in Northern Ireland or elsewhere relating to the parentage of the person whose parentage is in issue or to the parenthood of the person whose parenthood is in issue, and, if so, give the following details—

- (i) particulars of the proceedings, including the court, tribunal or authority before which they were begun, and their nature, outcome or present state;
- (ii) the date they were begun;
- (iii) the names of the parties; and

(iv) the date or expected date of any trial in the proceedings.

5. Connection with Northern Ireland

(1) State whether the person whose parentage is in issue or the person whose parenthood is in issue—

- (a) is domiciled in Northern Ireland on the date of the presentation of the application. YES/NO
- (b) has been habitually resident in Northern Ireland throughout the period of one year ending with that date. YES/NO
- (c) died before that date and either was at death domiciled in Northern Ireland or had been habitually resident in Northern Ireland throughout the period of one year ending with the date of death. YES/NO

(2) If the court's jurisdiction to hear the application is based on habitual residence, state the addresses of the places of residence of the person so resident and the length of residence at each place either during the period of one year ending with the date of presentation of the application or, if that person is dead, throughout the period of one year ending with the date of death.

6. Nationality

State the nationality, citizenship or immigration status of the person whose parentage is in issue and of the person whose parenthood is in issue, and the effect which the granting of a declaration of parentage would have upon the status of each of them as regards his nationality, citizenship or right to be in the United Kingdom.

7. Birth Certificate

A certified copy of the entry in the Register of Births relating to the birth of the person whose parentage is in issue must, where available, be attached to this application.

8. The Respondents

The respondents to the application will be—

- (i) the person whose parentage is in issue, and
- (ii) any person who is, or who is alleged to be, the mother or father of the person whose parentage is in issue,

unless that person is the applicant

State the full name and address of the respondents.

Signed:
(Applicant)

Date:

**SUMMONS TO RESPONDENT ON AN APPLICATION FOR A DECLARATION OF
PARENTAGE UNDER ARTICLE 31B OF THE MATRIMONIAL AND FAMILY
PROCEEDINGS (NORTHERN IRELAND) ORDER 1989**

**MAGISTRATES' COURTS (DECLARATIONS OF PARENTAGE) RULES
(NORTHERN IRELAND) 2002**

of Applicant Family Proceedings Court at

of Respondent County Court Division of

Whereas an application, a copy of which is attached, has been made under Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989.

THIS IS TO COMMAND YOU to appear as respondent on the hearing of the said application at on the day of 20 at o'clock before the Family Proceedings Court sitting at

Dated this day of 20

[Justice of the Peace]
[Clerk of Petty Sessions]*

*Delete as appropriate

**NOTICE OF AN APPLICATION FOR A DECLARATION OF PARENTAGE UNDER
ARTICLE 31B OF THE MATRIMONIAL AND FAMILY PROCEEDINGS
(NORTHERN IRELAND) ORDER 1989**

**MAGISTRATES' COURTS (DECLARATIONS OF PARENTAGE) RULES
(NORTHERN IRELAND) 2002**

To _____ of _____
of _____ Family Proceedings Court at _____
Applicant
of _____ County Court Division of _____
Respondent

The above-named applicant has applied for an order under Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989.

The Court will consider the application at _____ o'clock on _____ at _____.

**ACKNOWLEDGEMENT OF AN APPLICATION UNDER ARTICLE 31B OF THE
MATRIMONIAL AND FAMILY PROCEEDINGS (NORTHERN IRELAND) ORDER 1989**

**MAGISTRATES' COURTS (DECLARATIONS OF PARENTAGE) RULES
(NORTHERN IRELAND) 2002**

The Court

The full name of Applicant

Date of Hearing

1. Respondent's full name, date of birth and address for service
2. Do you have legal representation? YES/NO
If yes, state your solicitor's name, address, reference, telephone, FAX and DX numbers
3. Do you accept that you should be a respondent in this application? YES/NO
If no please give reasons.
If yes, do you intend to contest this application? YES/NO
If yes please give reasons.
4. Is everything in the application, to the best of your knowledge, true? YES/NO
If no please explain
5. Is there anything else that the court should know about this application? YES/NO
If yes please give details.

I declare that the information I have given is, to the best of my knowledge, true.

Signed

Date

You must return this acknowledgement to the court and serve a copy on the applicant and any other respondent **within 14 days** of the date of service on you of the application.

**REQUEST TO BE JOINED AS A PARTY TO AN APPLICATION FOR A
DECLARATION OF PARENTAGE UNDER ARTICLE 31B OF THE MATRIMONIAL
AND FAMILY PROCEEDINGS (NORTHERN IRELAND) ORDER 1989**

**MAGISTRATES' COURTS (DECLARATIONS OF PARENTAGE) RULES
(NORTHERN IRELAND) 2002**

of Applicant Family Proceedings Court at

of Respondent County Court Division of

1. About you (the Applicant)

State

- your title (Mr, Mrs etc) full name, sex, date and place of birth and address
- your solicitor's name, address, reference, telephone, FAX and DX numbers.

2. About the other people in the case

(1) State, so far as you know them, the title, full name and address of each respondent to this application.

3. Your reason(s) for requesting to be joined as a party

State the grounds on which you are relying and all other relevant facts which you allege justify the granting of your request to be joined as a party.

Signed:
(Applicant)

Date:

**ORDER TO TRANSFER AN APPLICATION FOR A DECLARATION OF PARENTAGE
UNDER ARTICLE 31B OF THE MATRIMONIAL AND FAMILY PROCEEDINGS
(NORTHERN IRELAND) ORDER 1989**

**MAGISTRATES' COURTS (DECLARATIONS OF PARENTAGE) RULES
(NORTHERN IRELAND) 2002**

of Applicant Family Proceedings Court at

of Respondent County Court Division of

The court orders that the above-named proceedings be transferred to because

[You will be notified shortly of the date of the next hearing at] [The next hearing
at will take place on the day of 20 at o'clock]*

Please address all future correspondence to

Ordered by
on

*Delete as appropriate

**DECLARATION OF PARENTAGE UNDER ARTICLE 31B OF THE MATRIMONIAL
AND FAMILY PROCEEDINGS (NORTHERN IRELAND) ORDER 1989**

of Family Proceedings Court at
Applicant

of County Court Division of
Respondent

Upon the application of _____ (the applicant) and upon hearing _____ (the
applicant) and (the respondent(s)):

It is declared that _____ (the person whose parenthood is in issue) [is] [was] [is not] [was not]*
the parent of _____ (the person whose parentage is in issue).

Declared by
on

*Delete as appropriate

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules prescribe the procedure to be followed in magistrates' courts on applications for declarations of parentage under Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (as inserted by section 66 of the Child Support Pensions and Social Security Act (Northern Ireland) 2000). Proceedings under Article 31B replace those under Article 32(1)(a) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989, which were brought in the High Court and county courts and those under Article 28 of the Child Support (Northern Ireland) Order 1991, which were brought in magistrates' courts and were limited to cases involving child support where paternity was in issue.

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