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STATUTORY INSTRUMENTS

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**2005 No. 2795**

**The Family Procedure (Adoption) Rules 2005**

**PART 11**

**MISCELLANEOUS**

**Withdrawal of application**

**106.**—(1) An application may be withdrawn with the permission of the court.

(2) Subject to paragraph (3), a person seeking permission to withdraw an application must file a written request for permission setting out the reasons for the request.

(3) The request under paragraph (2) may be made orally to the court if the parties and any children's guardian, reporting officer or children and family reporter are present.

(4) A court officer will notify the other parties and any children's guardian, reporting officer or children and family reporter of a written request.

(5) The court may deal with a written request under paragraph (2) without a hearing if the other parties and any children's guardian, reporting officer or children and family reporter have had an opportunity to make written representations to the court about the request.

**Application for recovery orders**

**107.**—(1) An application for any of the orders referred to in section 41(2) (recovery orders) may—

(a) in the High Court or a county court, be made without notice in which case the applicant must file the application—

(i) where the application is made by telephone, the next business day after the making of the application; or

(ii) in any other case, at the time when the application is made; and

(b) in a magistrates' court, be made, with the permission of the court, without notice in which case the applicant must file the application at the time when the application is made or as directed by the court.

(2) Where the court refuses to make an order on an application without notice it may direct that the application is made on notice in which case the application will proceed in accordance with Part 5.

(3) The respondents to an application under this rule are—

(a) in a case where—

(i) placement proceedings;

(ii) adoption proceedings; or

(iii) proceedings for a section 84 order

are pending, all parties to those proceedings;

- (b) any adoption agency authorised to place the child for adoption or which has placed the child for adoption;
- (c) any local authority to whom notice under section 44 (notice of intention to adopt or apply for a section 84 order) has been given;
- (d) any person having parental responsibility for the child;
- (e) any person in whose favour there is provision for contact;
- (f) any person who was caring for the child immediately prior to the making of the application; and
- (g) any person whom the applicant alleges to have effected or to have been or to be responsible for taking or keeping the child.

### **Inherent jurisdiction and fathers without parental responsibility**

**108.** Where no proceedings have started an adoption agency or local authority may ask the High Court for directions on the need to give a father without parental responsibility notice of the intention to place a child for adoption.

### **Timing of applications for section 89 order**

**109.** An application for a section 89 order must be made within 2 years beginning with the date on which—

- (a) the Convention adoption or Convention adoption order; or
- (b) the overseas adoption or determination under section 91

to which it relates was made.

### **Costs**

**110.** The court may at any time make such order as to costs as it thinks just including an order relating to the payment of expenses incurred by any officer of the Service or a Welsh family proceedings officer.

(Rule 5(3) provides that Parts 43, 44 (except rules 44.3(2) and (3) and 44.9 to 44.12A), 47 and 48 and rule 45.6 of the CPR apply to costs in proceedings.)

### **Orders**

**111.—(1)** An order takes effect from the date when it is made, or such later date as the court may specify.

(2) In proceedings in Wales a party may request that an order be drawn up in Welsh as well as English.

### **Copies of orders**

**112.—(1)** Within 7 days beginning with the date on which the final order was made in proceedings or such shorter time as the court may direct a court officer will send—

- (a) a copy of the order to the applicant;
- (b) a copy, which is sealed, authenticated with the stamp of the court or certified as a true copy, of—
  - (i) an adoption order;
  - (ii) a section 89 order; or

- (iii) an order quashing or revoking an adoption order or allowing an appeal against an adoption order
  - to the Registrar General;
  - (c) a copy of a Convention adoption order to the relevant Central Authority;
  - (d) a copy of a section 89 order relating to a Convention adoption order or a Convention adoption to the—
    - (i) relevant Central Authority;
    - (ii) adopters;
    - (iii) adoption agency; and
    - (iv) local authority;
  - (e) unless the court directs otherwise, a copy of a contact order or a variation or revocation of a contact order to the—
    - (i) person with whom the child is living;
    - (ii) adoption agency; and
    - (iii) local authority; and
  - (f) a notice of the making or refusal of—
    - (i) the final order; or
    - (ii) an order quashing or revoking an adoption order or allowing an appeal against an order in proceedings
- to every respondent and, with the permission of the court, any other person.
- (2) The court officer will also send notice of the making of an adoption order or a section 84 order to—
- (a) any court in Great Britain which appears to him to have made any such order as is referred to in section 46(2) (order relating to parental responsibility for, and maintenance of, the child); and
  - (b) the principal registry of the Family Division, if it appears to him that a parental responsibility agreement has been recorded at the principal registry.
- (3) A copy of any final order may be sent to any other person with the permission of the court.
- (4) The court officer will send a copy of any order made during the course of the proceedings to all the parties to those proceedings unless the court directs otherwise.
- (5) If an order has been drawn up in Welsh as well as English in accordance with rule 111(2) any reference in this rule to sending an order is to be taken as a reference to sending both the Welsh and English orders.

### **Amendment and revocation of orders**

- 113.**—(1) Subject to paragraph (2), an application under—
- (a) section 55 (revocation of adoptions on legitimation); or
  - (b) paragraph 4 of Schedule 1 (amendment of adoption order and revocation of direction)
- may be made without serving a copy of the application notice.
- (2) The court may direct that an application notice be served on such persons as it thinks fit.
- (3) Where the court makes an order granting the application, a court officer will send the Registrar General a notice—
- (a) specifying the amendments; or

- (b) informing him of the revocation,  
giving sufficient particulars of the order to enable the Registrar General to identify the case.
- (4) The court may at any time correct an accidental slip or omission in an order.
- (5) A party may apply for a correction under paragraph (4) without notice to the other parties.

### **Keeping of registers**

**114.**—(1) A magistrates' court officer will keep a register in which there will be entered a minute or memorandum of every adjudication of the court in proceedings to which these Rules apply.

(2) The register may be stored in electronic form on the court computer system and entries in the register will include, where relevant, the following particulars—

- (a) the name and address of the applicant;
- (b) the name of the child including, in adoption proceedings, the name of the child prior to, and after, adoption;
- (c) the age and sex of the child;
- (d) the nature of the application; and
- (e) the minute of adjudication.

(3) The part of the register relating to adoption proceedings will be kept separately to any other part of the register and will—

- (a) not contain particulars of any other proceedings; and
- (b) be kept by the court in a place of special security.