
STATUTORY RULES OF NORTHERN IRELAND

2002 No. 137

**FAMILY PROCEEDINGS
SUPREME COURT
COUNTY COURTS**

**The Family Proceedings (Amendment)
Rules (Northern Ireland) 2002**

Made - - - - 25th March 2002

To be laid before Parliament

Coming into operation 6th May 2002

We, the Family Proceedings Rules Committee, in exercise of the powers conferred on us by Article 12 of the Family Law (Northern Ireland) Order 1993(1) hereby with the concurrence of the Lord Chancellor, make the following Rules:—

Citation, commencement and interpretation

1. These Rules may be cited as the Family Proceedings (Amendment) Rules (Northern Ireland) 2002 and shall come into operation on 6th May 2002.

2. In these Rules a reference to a rule, Appendix or Form by number alone is a reference to the rule, Appendix or Form so numbered in the Family Proceedings Rules (Northern Ireland) 1996(2).

Saving

3. Nothing in these Rules shall affect any proceedings which are pending immediately before these Rules come into operation and the Rules in operation immediately before that day shall continue to apply to those proceedings.

Definitions

4. In rule 1.3(1)—

(a) after the definition of “the Allocation Order of 1999” insert—

(1) S.I.1993/1576 (N.I. 6)

(2) S.R. 1996 No. 322 to which relevant amendments were effected by S.R. 1999 No. 88 and S.R. 2000 No. 329

““the Allocation Order of 2002” means the Declarations of Parentage (Allocation of Proceedings) Order (Northern Ireland) 2002(3)

(b) after the definition of “consent order”, insert—

““Contracting State” means—

(a) one of the original parties to the Council Regulation, that is to say, Belgium, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden and the United Kingdom, and

(b) a party which has subsequently adopted the Council Regulation;

“the Council Regulation” means Council Regulation (EC) No. 1347/2000 of 29th May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses(4).”.

Jurisdiction

5. After rule 2.29 insert the following new rule—

“Stay under the Council Regulation

2.29A.—(1) An application for an order under Article 11 of the Council Regulation shall be made to the Master who may determine the application or refer the application, or any question arising thereon, to the judge for decision as if the application were an application for ancillary relief.

(2) Where at any time after the presentation of a petition, it appears to the court that, under Articles 9, 10 or 11 of the Council Regulation, the court is required or may be required to stay the proceedings, the court shall stay the proceedings and fix a date for a hearing to determine the questions of jurisdiction or admissibility and whether there should be a stay or other order and shall serve notice of the hearing on the parties to the proceedings.

(3) The court must give reasons for its decision under Articles 9, 10 or 11 of the Council Regulation and, where it makes a finding of fact, state such finding of fact.

(4) An order under Article 9 of the Council Regulation that the court has no jurisdiction over the proceedings or an order under Article 11 of the Council Regulation declining jurisdiction shall be recorded in writing.

(5) The court may, if all parties agree, deal with any question about the jurisdiction of the court without a hearing.”.

Pensions

6. In rule 2.73(5) for the words “pursuant to” substitute the words “for the purposes of”.

Declarations of parentage

7. After rule 3.23 insert the following new rules—

(3) S.R. 2002 No. 119

(4) O.J. No. L160, 30.6.2000, p. 19

“Application under Article 31B of the Order of 1989(5) for a declaration of parentage

3.24.—(1) An application under Article 31B of the Order of 1989 for a declaration of parentage shall be commenced by petition which, unless otherwise directed, shall state—

- (a) the full name and the sex, date and place of birth and residential address of the petitioner (except where the petitioner is the Department);
- (b) where the case is not an excepted case within Article 31B(4) of the Order of 1989, either the petitioner’s interest in the determination of the application or that Article 28(2) of the Order of 1991(6) applies;
- (c) if they are known, the full name and the sex, date and place of birth and residential address of each of the following persons (unless that person is the petitioner)—
 - (i) the person whose parentage is in issue;
 - (ii) the person whose parenthood is in issue; and
 - (iii) any person who is acknowledged to be the father or mother of the person whose parentage is in issue;
- (d) if the petitioner, 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 certificate of his birth, that other name (which shall also be stated in any decree made thereon);
- (e) if it is known, the full name of the mother, or alleged mother, of the person whose parentage is in issue, 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;if it was at any of those times different from her full name at the date of the presentation of the petition;
- (f) the grounds on which the petitioner relies and all other material facts alleged by him to justify the making of the declaration;
- (g) 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—
 - (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;
- (h) that either the person whose parentage is in issue or the person whose parenthood is in issue—

(5) **S.I. 1989/677 (N.I. 6) Article 31B** was inserted by section 66 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

(6) S.I. 1991/2628 (N.I. 23) Article 28 was substituted by section 66(5) of, and paragraph 6 of Schedule 8 to, the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4)

- (i) is domiciled in Northern Ireland on the date of the presentation of the petition; or
 - (ii) has been habitually resident in Northern Ireland throughout the period of one year ending with that date; or
 - (iii) 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; and
- (i) 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.
- (2) Unless otherwise directed, there shall be annexed to the petition a copy of the birth certificate of the person whose parentage is in issue.
- (3) The respondents to the application shall 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;
- excluding the petitioner.
- (4) The prescribed officer for the purposes of Article 31B(7) of the Order of 1989 shall be the chief clerk or proper officer, as the case may be.

Application under Article 32 of the Order of 1989 for a declaration of legitimacy or legitimation

- 3.25.**—(1) Unless otherwise directed, a petition by which proceedings are begun under Article 32 of the Order of 1989 for a declaration of legitimacy or legitimation shall state—
- (a) the name of the petitioner and, if the petitioner is known by a name other than that which appears in the certificate of his birth, that other name (which shall be stated in any decree made on the petition);
 - (b) the date and place of birth of the petitioner;
 - (c) if it is known, the name of the petitioner’s father and the maiden name of the petitioner’s mother and, if it is different, her current name, and the residential address of each of them at the time of the presentation of the petition;
 - (d) the grounds on which the petitioner relies and all other material facts alleged by him to justify the making of the declaration; and
 - (e) either that the petitioner is domiciled in Northern Ireland on the date of the presentation of the petition or that he has been habitually resident in Northern Ireland throughout the period of one year ending with that date.
- (2) Unless otherwise directed, there shall be annexed to the petition a copy of the petitioner’s birth certificate.
- (3) The petitioner’s father and mother, or the survivor of them, shall be respondents to the application.

General provisions relating to applications under Article 31B or 32 of the 1989 Order

3.26. Rules 3.27 to 3.35 shall apply to a petition issued under rule 3.24 or 3.25 as the case may be.

Affidavit in support of petition

3.27.—(1) A petition shall be supported by an affidavit by the petitioner verifying the petition and giving particulars of every person whose interest may be affected by the proceedings and his relationship to the petitioner. Provided that if the petitioner is under the age of 18 the affidavit shall, unless otherwise directed, be made by his next friend.

(2) An affidavit for the purpose of paragraph (1) may contain statements of information and belief and the sources and grounds thereof.

Notice of petition to be given to the Attorney General

3.28.—(1) A copy of the petition and every document accompanying it shall be given by the petitioner to the Crown Solicitor on behalf of the Attorney General at least one month before the petition is filed and it shall not be necessary thereafter to serve these documents on him.

(2) On filing the petition, notice of the petition shall be given by the petitioner to the Crown Solicitor on behalf of the Attorney General who may enter an appearance to the petition within 14 days from such notice.

(3) 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 request a copy of, any document filed or lodged in the court offices which relates to any other matrimonial proceedings referred to in the proceedings.

Service of petition

3.29. A copy of the petition endorsed with a notice to appear in Form M32 shall be served personally or by post on every respondent.

Appearance by respondent

3.30. A respondent may, within 14 days of service of the petition, enter an appearance.

Answer by respondent

3.31.—(1) A respondent who has entered an appearance may, within 14 days thereafter enter an answer to the petition.

(2) The respondent shall within 4 days of filing an answer deliver a copy of it to the petitioner and to the Crown Solicitor and any other party to the proceedings.

Application for directions

3.32.—(1) After the expiration of the time limited for the filing of an answer under rule 3.31(1), the petitioner shall issue and serve on all respondents, and on the Crown Solicitor, an application for directions as to any other persons who should be made respondents to the petition or given notice of the proceedings.

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

to the proceedings and, if it does so consider, the Attorney General need not file an answer and the court shall give directions requiring him to serve on all parties to the proceedings a summary of his argument.

Answer by the Attorney General

3.33. Subject to paragraph (2) of rule 3.32, the Attorney General shall file an answer to the petition within 21 days after directions have been given under that rule and shall deliver a copy thereof to the petitioner and any other party to the proceedings.

Joining of parties

3.34. Persons given notice of proceedings pursuant to directions given in accordance with rule 3.32 shall within 21 days of service of the notice upon them be entitled to apply to the Master to be joined as parties and the matter shall not be set down for hearing until that period and the period referred to in rule 3.33 have expired.

Setting down for hearing

3.35.—(1) The petitioner shall request the Master to enter the cause for hearing by lodging in the county court office or the Matrimonial Office, as the case may be, a certificate of readiness in Form M33.

(2) At the same time as lodging the certificate of readiness, the petitioner shall deliver to the Office one bundle for the use of the judge consisting of one indexed copy of the following documents—

- (a) the certificate of readiness;
- (b) the petition;
- (c) any other pleadings;
- (d) affidavit of service;
- (e) interlocutory orders;
- (f) the requisite legal aid documents,

fastened together in the order shown and having endorsed thereon the names and addresses of the solicitors for the parties.

(3) Within 4 days of lodging the certificate of readiness the petitioner shall give notice of having done so to the Crown Solicitor on behalf of the Attorney General and to each party in the cause who has entered an appearance.

(4) The Master shall, subject to paragraph (5), fix a date for hearing and give notice thereof to every party in the cause.

(5) Save with the consent of all the parties or by leave of the judge, no cause shall be placed in the list for hearing until after the expiration of 10 days from the date on which the certificate of readiness was lodged.

Form of declaration

3.36. A declaration made in accordance with Article 31B of the Order of 1989 shall be in Form M34 and a declaration made in accordance with Article 32 of the Order of 1989 shall be in Form M35.

Notice to Registrar General

3.37. Within 21 days after a declaration of parentage has been made, the prescribed officer shall send to the Registrar General a copy of the declaration in Form M34 and the petition.

Transfer of proceedings under the Allocation Order of 2002

3.38.—(1) Where proceedings are transferred to the High Court under Article 6 of the Allocation Order of 2002 any relevant documentation shall be sent by the chief clerk to the Matrimonial Office.

(2) The proper officer shall notify the parties of an order transferring proceedings from the High Court in accordance with Article 7 or 8 of the Allocation Order of 2002 and a copy of the order shall be sent to the court to which the proceedings are transferred.

(3) The chief clerk shall notify the parties of an order transferring proceedings in accordance with Article 6 or 7 of the Allocation Order of 2002 and a copy of the order shall be sent to the court to which the proceedings are transferred.

(4) An order under this rule transferring the proceedings in accordance with the Allocation Order of 2002 shall be in Form M36.”.

8. After rule 8.32 insert the following new rules—

“Registration and Enforcement under the Council Regulation

Interpretation

8.33. In rules 8.34 to 8.42 “judgment” is to be construed in accordance with the definition in Article 13 of the Council Regulation.

Filing of applications

8.34. Every application to the High Court under the Council Regulation, other than an application under rule 8.42 for a certified copy of a judgment, shall be filed with the Matrimonial Office.

Application for registration

8.35. An application for registration of a judgment under Article 21(2) of the Council Regulation shall be made without notice being served on any other party.

Evidence in support of application

8.36.—(1) An application for registration under Article 21(2) of the Council Regulation must be supported by a statement that is sworn to be true or an affidavit—

(a) exhibiting—

(i) the judgment or a verified or certified or otherwise duly authenticated copy thereof together with such other document or documents as may be requisite to show that, according to the law of the Contracting State in which it has been given, the judgment is enforceable and has been served;

(ii) in the case of a judgment given in default, the original or a certified true copy of the document which establishes that the party in default was served with the document instituting the proceedings or with an equivalent document;

- (iii) where it is the case, a document showing that the party making the application is in receipt of legal aid in the Contracting State in which the judgment was given;
 - (iv) where the judgment or document is not in the English language, a translation thereof into English certified by a notary public or a person qualified for the purpose in one of the Contracting States or authenticated by witness statement or affidavit;
 - (v) the certificate, in the form set out in Annex IV or Annex V of the Council Regulation, issued by the Contracting State in which judgment was given;
- (b) stating—
- (i) whether the judgment provides for the payment of a sum or sums of money;
 - (ii) whether interest is recoverable on the judgment or part thereof in accordance with the law of the State in which the judgment was given, and if such be the case, the rate of interest, the date from which interest is recoverable, and the date on which interest ceases to accrue;
- (c) giving an address within the jurisdiction of the court for service of process on the party making the application and stating, so far as is known to the witness, the name and the usual or last known address or place of business of the person against whom judgment was given; and
- (d) stating to the best of the information or belief of the witness—
- (i) the grounds on which the right to enforce the judgment is vested in the party making the application;
 - (ii) as the case may require, either that at that date of the application the judgment has not been satisfied, or the part or amount in respect of which it remains unsatisfied.
- (2) Where the party making the application does not produce the documents referred to in paragraphs 1(a)(ii) and (iii), the court may—
- (a) fix a time within which the documents are to be produced;
 - (b) accept equivalent documents; or
 - (c) dispense with production of the documents.

Order for registration

8.37.—(1) An order giving permission to register a judgment under Article 21(2) of the Council Regulation must be drawn up by the court.

(2) Every such order shall state the period within which an appeal may be made against the order for registration and shall contain a notification that the judgment will not be enforced until after the expiration of that period.

(3) The notification referred to in paragraph (2) shall not prevent any application for protective measures under Article 12 of the Council Regulation pending final determination of any issue relating to enforcement of the judgment.

Register of judgments

8.38. There shall be kept by the proper officer a register of the judgments ordered to be registered under Article 21(2) of the Council Regulation.

Notice of registration

8.39.—(1) Notice of the registration of a judgment under Article 21(2) of the Council Regulation must be served on the person against whom judgment was given by delivering it to him personally or by sending it to him at his usual or last known address or place of business or in such other manner as the court may direct.

(2) The notice of the registration must state—

- (a) full particulars of the judgment registered and the order for registration;
- (b) the name of the party making the application and his address for service within the jurisdiction;
- (c) the right of the person against whom judgment was given to appeal against the order for registration; and
- (d) the period within which an appeal against the order for registration may be made.

Enforcement of judgment

8.40.—(1) A judgment registered under Article 21(2) of the Council Regulation shall not be enforced until after the expiration of the period specified in accordance with rule 8.37 or, if that period has been extended by the Court, until after the expiration of the period so extended.

(2) Any party wishing to apply for the enforcement of a judgment registered under Article 21(2) of the Council Regulation must produce to the proper officer a witness statement or affidavit of service of the notice of registration of the judgment and of any order made by the court in relation to the judgment.

(3) Nothing in this rule shall prevent the court from granting protective measures under Article 12 of the Council Regulation pending final determination of any issue relating to enforcement of the judgment.

Application for recognition

8.41.—(1) Registration of the judgment under these rules shall serve for the purposes of Article 14(3) of the Council Regulation as a decision that the judgment is recognised.

(2) Where it is sought to apply for recognition of a judgment, the rules of this Part shall apply to such application as they apply to an application for registration under Article 21(2) of the Council Regulation, with the exception that the applicant shall not be required to produce—

- (a) a document or documents which establish that according to the law of the Contracting State in which it has been given the judgment is enforceable and has been served, or
- (b) the document referred to in rule 8.36(1)(a)(iii).

Enforcement of judgments in other Contracting States

8.42.—(1) Subject to rules 7.9(2) and 7.12, an application for a certified copy of a judgment referred to in Article 32(1) of the Council Regulation must be made to the court which made the order and supported by a witness statement or affidavit, without notice being served on any other party.

(2) A witness statement or affidavit by which such an application is made must—

- (a) give particulars of the proceedings in which the judgment was obtained;

- (b) have annexed to it a copy of the petition or application by which the proceedings were begun, the evidence of service thereof on the respondent, copies of the pleadings and particulars, if any, and a statement of the grounds on which the judgment was based together, where appropriate, with any document showing that the applicant is entitled to legal aid or assistance by way of representation for the purposes of the proceedings;
- (c) state whether the respondent did or did not object to the jurisdiction and, if so, on what grounds;
- (d) show that the judgment has been served in accordance with rules 4.9, 7.3, 7.4, 7.9 or 7.10 and is not subject to any order for the stay of proceedings;
- (e) state that the time for appealing has expired, or, as the case may be, the date on which it will expire and in either case whether notice of appeal against the judgment has been given; and
- (f) state—
 - (i) whether the judgment provides for the payment of a sum of money;
 - (ii) whether interest is recoverable on the judgment or part thereof and if so, the rate of interest, the date from which interest is recoverable and the date on which interest ceases to accrue.

(3) The certified copy of the judgment shall be an office copy sealed with the seal of the court and signed by the Master and there shall be issued with the copy of the judgment a certified copy of any order which has varied any of the terms of the original order.

Authentic instruments and court settlements

8.43. Rules 8.33 to 8.42 (except rule 8.36(1)(a)(ii)) shall apply to an authentic instrument and a settlement to which Article 13(3) of the Council Regulation applies, as they apply to a judgment subject to any necessary modifications.”.

9. In Form M5 (Notice of proceedings), after the words “Notes on Questions in Form M6” insert

- (a) If you answer “Yes” to Question 1A please attach a copy of any relevant order or court documents to the acknowledgement of service.
- (b) Before answering “Yes” to Question 1A or “No” to Question 1C you should understand that, under Articles 9 and 11 of Council Regulation (EC) No. 1347/2000 of 29th May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses, the court will need to decide whether it has jurisdiction to entertain the proceedings. In these circumstances, the proceedings may be stayed whilst the court reaches its decision.”.

10. In Form M6 (Acknowledgement of Service), after question 1 insert—

“**1A.** Are there any proceedings continuing in any country outside Northern Ireland which relate to the marriage or are capable of affecting its validity or subsistence? If so, please provide the following information:

- (a) particulars of the proceedings, including the court in or tribunal or authority before which they were begun,
- (b) the date when they were begun,
- (c) the names of the parties,
- (d) the date or expected date of any trial in the proceedings, and

(e) such other facts as may be relevant to the question whether the proceedings on the petition should be stayed under Article 11 of the Council Regulation.

1B. In which country are you—

(a) habitually resident?

(b) domiciled?

1C. Of which country are you a national?

1D. Do you agree with the statement of the petitioner as to the grounds of jurisdiction set out in the petition? If not, please state the grounds on which you disagree.”.

11. After Form M31 there shall be inserted the Forms set out in the Schedule to these Rules.

12. In Appendix 2—

(a) after paragraph 1(b) insert—

“(bb) where it is alleged that the court has jurisdiction under the Council Regulation, the grounds of jurisdiction under Article 2(1) of the Council Regulation.”;

(b) in each of paragraphs 1(c) and 1(d), after the words “has jurisdiction”, insert—

“, other than under the Council Regulation,”; and

(c) at the end of paragraph 4(a) insert—

“(including an application for a pension sharing or pension attachment order)”.

*R. D. Carswell
J. Gillen
F. Brian Hall
M. McReynolds
Catherine Dixon
Barry Malcolm
Kathleen Finlay*

Dated 25th March 2002.

I concur

Dated 5th April 2002

Irvine of Lairg, C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Rule 11

Form M32FORM OF NOTICE TO APPEAR IN PETITION FOR DECLARATION OF [PARENTAGE] [LEGITIMACY] [LEGITIMATION]

Rule 3.29

To _____ of _____

Take notice that you (*insert name of respondent*) are a respondent to this petition and may, within 14 days of service of this petition (inclusive of the day of service), enter an appearance either in person or by your solicitor at (*insert address of relevant court office*) and make an answer to the petition. If you do not do so, the court will hear the petition and pronounce judgment in your absence.

This petition is filed and this notice to appear is issued by _____

Dated the _____ day of _____ 20 .

Master.

NOTE: Any person entering an appearance must at the same time provide an address for service in the jurisdiction.

Form M33CERTIFICATE OF READINESS

Rule 3.35

To the Master

I/We request that you enter this cause for hearing.

I/We certify on the part of the petitioner that—

- (1) there are no pending interlocutory proceedings;
- (2) the petitioner does not intend to commence any further interlocutory proceedings before trial;
- (3) so far as the petitioner is concerned, the cause is ready for trial.

(Signed)

Solicitor for petitioner

Form M34DECLARATION OF PARENTAGE UNDER ARTICLE 31B OF THE MATRIMONIAL AND FAMILY PROCEEDINGS (NORTHERN IRELAND) ORDER 1989

Rule 3.36

[In the High Court of Justice in Northern Ireland Family Division]

[In the Family Care Centre at _____]

Upon the petition of (*insert the name of the petitioner*) and upon hearing (*insert the name of the respondent*) it is hereby declared that [*is*][*is not*][*was*][*was not*]* the parent of (*insert the name of the petitioner*).

Dated the _____ day of _____ 20 .

Signed

*Delete as appropriate

Form M35DECLARATION AS TO LEGITIMACY OR LEGITIMATION UNDER ARTICLE 32 OF THE MATRIMONIAL AND FAMILY PROCEEDINGS (NORTHERN IRELAND) ORDER 1989

[In the High Court of Justice of Northern Ireland

Family Division]

[In the Family Care Centre at]

UPON the petition of *(insert name of petitioner)* and upon hearing the petitioner and *(insert name of respondent)*, the respondent.

IT IS DECLARED* that and *(the petitioner's parents)* were lawfully married at on the day of and that *(insert name of petitioner)* born at on the day of is the lawful child of his parents and *[or where the petitioner was born before such marriage, and that by the said marriage (insert name of petitioner) [was][was not] legitimated for the purposes of the Legitimacy Act (Northern Ireland) 1928 as from the 4th June 1928, the date of the commencement of the said Act. [or from the date of the said marriage] [or where section 1 of the Legitimacy Act (Northern Ireland) 1961 applies as from the date of commencement of the Legitimacy Act (Northern Ireland) 1961, 4th July 1961] [or as from the day of , the date of the said marriage (whichever is the later date).*

Dated 2002

**or where section 2 of the Legitimacy Act (Northern Ireland) 1961 applies, the following form shall be followed:*

that, *(insert name of petitioner)*, born on the day of at , the child of and who entered into a form of ceremony of marriage at on the day of [is][is not] by virtue of section 2 of the Legitimacy Act (Northern Ireland) 1961 to be treated as a legitimate child of the said and

**or where section 8 of the Legitimacy Act (Northern Ireland) 1928 applies, the following form shall be followed:*

that, because , the father of *(insert name of petitioner)* the said petitioner [was][was not] domiciled in Northern Ireland at the date of his marriage with (formerly) and that the requirements of (country of domicile) law as to the legitimation of a person born out of wedlock, by the subsequent marriage of the parents of such a person [had][had not] been complied with, then by virtue of section 8 of the Legitimacy Act (Northern Ireland) 1928 the said and (formerly) [were][were not] lawfully married at on the day of and that *(insert name of petitioner)* born at on the day of [is][is not] the lawful child of his parents the said and and that by the said marriage the said *(insert name of petitioner)* [was][was not] legitimated for the purposes of the Legitimacy Act (Northern Ireland) 1928 as from the date of the commencement of that Act 4th June 1928 [or the date of the marriage] *(whichever is later)*.

**or where there has been a legitimation (whether or not by virtue of the subsequent marriage of the petitioner's parents) which is recognised by the law of Northern Ireland and effected under the law of any other country the following form shall be followed:*

that, because , the father of *(insert name of petitioner)*, [was][was not] domiciled in at the date of his marriage with (formerly) and the requirements of (country of domicile) law as to the legitimation of a person born out of wedlock by the subsequent marriage of the parents of such a person [had][had not] been complied with, then, by virtue of the law in Northern Ireland, that the said and (formerly) [were][were not] lawfully married at on the day of and that *(insert name of petitioner)*, born at on the day of [is][is not] the lawful child of his parents, the said and and that, by the said marriage, *(insert name of petitioner)* [was] [was not] legitimated for the purpose of the law of Northern Ireland as from the date of the said marriage.

*Delete as applicable.

Form M36TRANSFER OF PROCEEDINGS UNDER THE DECLARATIONS OF PARENTAGE (ALLOCATION OF PROCEEDINGS) ORDER (NORTHERN IRELAND) 2002

Rule 3.38

[In the High Court of Justice in Northern Ireland]

[In the Family Care Centre at]

The Court orders that the proceedings concerning the petition of (insert name of petitioner) be transferred to *(insert name of court)*

The next [hearing] [directions appointment] is on at

Please address all future correspondence to

Ordered by

On

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Family Proceedings Rules (Northern Ireland) 1996. In particular they—

- (a) prescribe the procedure for applications under—
 - (i) Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (declarations of parentage). This Article was inserted by section 66 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000; and
 - (ii) Article 32 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (declarations of legitimacy or legitimation); and
- (b) give effect to Council Regulation (EC) No. 1347/2000 of 29th May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses.