

ALTERNATIVE PROCEDURE FOR APPLICATIONS

This Practice Direction supplements FPR Part 19

Types of application in which Part 19 procedure must be used

- 1.1** An applicant must use the Part 19 procedure if the application is for an order under –
- (a) section 60(3) of the 2002 Act, to prevent disclosure of information to an adopted person;
 - (b) section 79(4) of the 2002 Act, to require the Registrar General to provide information; or
 - (c) rule 14.21 (Inherent jurisdiction and fathers without parental responsibility) in Part 14, to request directions of the High Court regarding fathers without parental responsibility.

Types of application in which Part 19 procedure may be used

- 1.2** An applicant may use the Part 19 procedure if Part 18 does not apply and if –
- (a) there is no prescribed form in which to make the application; or
 - (b) the applicant seeks the court's decision on a question which is unlikely to involve a substantial dispute of fact.
- 1.3** An applicant may also use the Part 19 procedure if a practice direction permits or requires its use for the type of proceedings concerned.
- 1.4** The practice directions referred to in paragraph 1.3 may in some respects modify or disapply the Part 19 procedure and, where that is so, it is those practice directions, rather than this one, which must be complied with.
- 1.5** The types of application for which the Part 19 procedure may be used include an application for an order or direction which is unopposed by each respondent before the commencement of the proceedings and the sole purpose of the application is to obtain the approval of the court to the agreement.
- 1.6** Where it appears to a court officer that an applicant is using the Part 19 procedure inappropriately, the officer may refer the application to the court for consideration of the point.
- 1.7** The court may at any stage order the application to continue as if the applicant had not used the Part 19 procedure and, if it does so, the court will give such directions as it considers appropriate (see rule 19.1(3)).

The application

- 2.1** Where an applicant uses the Part 19 procedure, the application form referred to in Practice Direction 5A should be used and must state the matters set out in rule 19.3 and, if paragraphs 1.3 and 1.4 apply, must comply with the requirements of the practice direction in question. In particular, the application form must state that Part 19 applies. A Part 19 application form means an application form which so states.
- 2.2** An application –
- (a)** in accordance with rule 19.4, to 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; or
 - (b)** under section 60(3) of the 2002 Act for an order to prevent disclosure of information to an adopted person, may be issued without naming a respondent.

Responding to the application

- 3.1** Where a respondent who wishes to respond to a Part 19 application is required to file an acknowledgement of service, that acknowledgement of service should be in form FP5 which is referred to in Practice Direction 5A but can, alternatively be given in an informal document such as a letter.
- 3.2** Rule 19.5 sets out provisions relating to an acknowledgement of service of a Part 19 application.
- 3.3** Rule 19.6 sets out the consequence of failing to file an acknowledgement of service.
- 3.4** A respondent who believes that the Part 19 procedure should not be used because there is a substantial dispute of fact or, as the case may be, because its use is not authorised by any rule in the FPR or any practice direction, must state the reasons for that belief in writing when filing the acknowledgement of service (see rule 19.9). If the statement of reasons includes matters of evidence, it should be verified by a statement of truth.

Managing the application

- 4.1** The court may give directions immediately a Part 19 application is issued either on the application of a party or of its own initiative. The directions may include fixing a hearing date where –
- (a)** there is no dispute; or
 - (b)** where there may be a dispute, but a hearing date could conveniently be given.
- 4.2** Where the court does not fix a hearing date when the application is issued, it will give directions for the disposal of the application as soon as practicable after the respondent has acknowledged service of the application or, as the case may be, after the period for acknowledging service has expired.
- 4.3** Certain applications may not require a hearing.
- 4.4** The court may convene a directions hearing before giving directions.

Evidence

- 5.1** An applicant wishing to rely on written evidence should file it when the Part 19 application form is issued.
- 5.2** Evidence will normally be in the form of a witness statement or an affidavit but an applicant may rely on the matters set out in the application form provided it has been verified by a statement of truth.
- (For information about statements of truth see Part 17 and Practice Direction 17A, and about written evidence see Part 22 and Practice Direction 22A.)
- 5.3** A respondent wishing to rely on written evidence should file it with the acknowledgement of service (see rule 19.7(3)).
- 5.4** Rule 19.7 sets out the times and provisions for filing and serving written evidence.
- 5.5** A party may apply to the court for an extension of time to serve and file evidence under rule 19.7 or for permission to serve and file additional evidence under rule 19.8(1).
- (For information about applications see Part 18 and Practice Direction 18A.)
- 5.6** The parties may, subject to paragraphs 5.7 and 5.8, agree in writing on an extension of time for serving and filing evidence under rule 19.7(3) or rule 19.7(5).
- 5.7** An agreement extending time for a respondent to file evidence in reply under rule 19.7(3) –
- (a) must be filed by the respondent at the same time as the acknowledgement of service; and
 - (b) must not extend time by more than 17 days after the respondent files the acknowledgement of service.
- 5.8** An agreement extending time for an applicant to file evidence in reply under rule 19.7(5) must not extend time to more than 28 days after service of the respondent's evidence on the applicant.

Hearing

- 6.1** The court may on the hearing date –
- (a) proceed to hear the case and dispose of the application;
 - (b) give case management directions.

