

# SCHEDULE 2 CCR ORDER 46

## THE LEGITIMACY ACT 1976

### Rule 1 Manner of application

- (1) An application to a county court under section 45(2) of the Matrimonial Causes Act 1973<sup>1</sup> for a declaration of legitimation by virtue of the Legitimacy Act 1976<sup>2</sup> shall be made by claim form stating –
  - (a) the grounds on which the applicant relies;
  - (b) the date and place of birth of the applicant and the maiden name of his mother and, if it be the case, that the applicant is known by a name other than that which appears in the certificate of his birth; and
  - (c) particulars of every person whose interest may be affected by the proceedings and his relationship, if any, to the applicant, including any person other than the applicant's father to whom his mother was married at the date of his birth.
- (2) The application may be filed in the court for the district in which the applicant resides or the marriage leading to the legitimation was celebrated, or if neither the residence of the applicant nor the place of the marriage is in England or Wales, then in the Westminster County Court.
- (3) The applicant shall file with the claim form–
  - (a) a witness statement or affidavit by him (or, if he is a child, by his litigation friend) verifying the application; and
  - (b) any birth, death or marriage certificate intended to be relied on at the hearing.

### Rule 2 Preliminary consideration and service

- (1) On the filing of the documents mentioned in rule 1, the court officer shall fix a day for a case management hearing and give notice thereof to the Attorney-General.
- (2) It shall not be necessary to serve the application on the Attorney-General otherwise than by delivering a copy of it to him in accordance with section 45(6) of the Matrimonial Causes Act 1973.
- (3) At the case management hearing the court shall give directions as to the persons, if any, other than the Attorney-General, who are to be made respondents to the application.
- (4) Where in the opinion of the court it is impracticable to serve a respondent other than the Attorney-General in accordance with the rules relating to service or it is otherwise necessary or expedient to dispense with service of the claim form on any such respondent, the court may make an order dispensing with service on him.

<sup>1</sup> 1973 c.18; section 45 was amended by the Domestic Proceedings and Magistrates' Courts Act 1978 (c.22); section 89, Schedule 2, paragraph 39; by the Matrimonial and Family Proceedings Act 1984 (c.42), section 46(1), Schedule 1, paragraph 15; and by the Family Law Act 1986 (c.55), section 68(1), Schedule 1, paragraph 14.

<sup>2</sup> 1976 c.31.

### **Rule 3 Answer**

- (1) The Attorney-General may file an answer to the application within 14 days after directions have been given at the case management hearing.
- (2) Any other respondent who wishes to oppose the application or to dispute any of the facts alleged in it shall, within 14 days after service of the application on him, file an answer to the application.
- (3) A respondent who files an answer shall file with it as many copies as there are other parties to the proceedings and the court shall send one of the copies to each of those parties.