

ALTERNATIVE PROCEDURE FOR APPLICATIONS

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19.1 Types of application for which Part 19 procedure may be followed

- (1) The Part 19 procedure is the procedure set out in this Part.
- (2) An applicant may use the Part 19 procedure where the Part 18 procedure does not apply and –
 - (a) there is no form prescribed by a rule or referred to in Practice Direction 5A in which to make the application;
 - (b) the applicant seeks the court's decision on a question which is unlikely to involve a substantial dispute of fact; or
 - (c) paragraph (5) applies.
- (3) The court may at any stage direct that the application is to continue as if the applicant had not used the Part 19 procedure and, if it does so, the court may give any directions it considers appropriate.
- (4) Paragraph (2) does not apply if a practice direction provides that the Part 19 procedure may not be used in relation to the type of application in question.
- (5) A rule or practice direction may, in relation to a specified type of proceedings –
 - (a) require or permit the use of the Part 19 procedure; and
 - (b) disapply or modify any of the rules set out in this Part as they apply to those proceedings.

19.2 Applications for which the Part 19 procedure must be followed

- (1) The Part 19 procedure must be used in an application made in accordance with –
 - (a) section 60(3) of the 2002 Act (order to prevent disclosure of information to an adopted person);
 - (b) section 79(4) of the 2002 Act (order for Registrar General to give any information referred to in section 79(3) of the 2002 Act); and
 - (c) rule 14.21 (directions of High Court regarding fathers without parental responsibility).

- (2) The respondent to an application made in accordance with paragraph (1)(b) is the Registrar General.

19.3 Contents of the application

Where the applicant uses the Part 19 procedure, the application must state –

- (a) that this Part applies;
- (b) either –
 - (i) the question which the applicant wants the court to decide; or
 - (ii) the order which the applicant is seeking and the legal basis of the application for that order;
- (c) if the application is being made under an enactment, what that enactment is;
- (d) if the applicant is applying in a representative capacity, what that capacity is; and
- (e) if the respondent appears or is to appear in a representative capacity, what that capacity is.

(Part 17 requires a statement of case to be verified by a statement of truth.)

19.4 Issue of application without naming respondents

- (1) A practice direction may set out circumstances in which an application may be issued under this Part without naming a respondent.
- (2) The practice direction may set out those cases in which an application for permission must be made by application notice before the application is issued.
- (3) The application for permission –
 - (a) need not be served on any other person; and
 - (b) must be accompanied by a copy of the application which the applicant proposes to issue.
- (4) Where the court gives permission, it will give directions about the future management of the application.

19.5 Acknowledgment of service

- (1) Subject to paragraph (2), each respondent must –
 - (a) file an acknowledgment of service within 14 days beginning with the date on which the application is served; and
 - (b) serve the acknowledgment of service on the applicant and any other party.
- (2) If the application is to be served out of the jurisdiction, the respondent must file and serve an acknowledgment of service within the period set out in Practice Direction 6B.
- (3) The acknowledgment of service must –
 - (a) state whether the respondent contests the application;
 - (b) state, if the respondent seeks a different order from that set out in the application, what that order is; and
 - (c) be signed by the respondent or the respondent's legal representative.

19.6 Consequence of not filing an acknowledgment of service

- (1) This rule applies where –
 - (a) the respondent has failed to file an acknowledgment of service; and
 - (b) the time period for doing so has expired.

- (2) The respondent may attend the hearing of the application but may not take part in the hearing unless the court gives permission.

19.7 Filing and serving written evidence

- (1) The applicant must, when filing the application, file the written evidence on which the applicant intends to rely.
- (2) The applicant's evidence must be served on the respondent with the application.
- (3) A respondent who wishes to rely on written evidence must file it when filing the acknowledgment of service.
- (4) A respondent who files written evidence must also, at the same time, serve a copy of that evidence on the other parties.
- (5) Within 14 days beginning with the date on which a respondent's evidence was served on the applicant, the applicant may file further written evidence in reply.
- (6) An applicant who files further written evidence must also, within the same time limit, serve a copy of that evidence on the other parties.

19.8 Evidence – general

- (1) No written evidence may be relied on at the hearing of the application unless –
 - (a) it has been served in accordance with rule 19.7; or
 - (b) the court gives permission.
- (2) The court may require or permit a party to give oral evidence at the hearing.
- (3) The court may give directions requiring the attendance for cross-examination(GL) of a witness who has given written evidence.

(Rule 22.1 contains a general power for the court to control evidence.)

19.9 Procedure where respondent objects to use of the Part 19 procedure

- (1) A respondent who contends that the Part 19 procedure should not be used because –
 - (a) there is a substantial dispute of fact; and
 - (b) the use of the Part 19 procedure is not required or permitted by a rule or practice direction, must state the reasons for that contention when filing the acknowledgment of service.
- (2) When the court receives the acknowledgment of service and any written evidence, it will give directions as to the future management of the case.

(Rule 19.7 requires a respondent who wishes to rely on written evidence to file it when filing the acknowledgment of service.)

(Rule 19.1(3) allows the court to make an order that the application continue as if the applicant had not used the Part 19 procedure.)

