

PART 5

ANNULMENT OR REVOCATION OF ADOPTION ETC.

**33. Introductory**

Subject to the provisions of this Part, Parts 1 and 3 apply, with the necessary modifications, to proceedings under this Part as they apply to other proceedings in the Court under the Act; and rules 30 to 32 apply to proceedings under this Part as they apply to Convention proceedings.

**34. Application to revoke or annul adoption**

(1) An application for an order under section 40(1) or 41(1) of the Act shall be made by an originating application in Form 7; and the adopted person and any adopter, not being the applicant, shall be the respondents to the application.

(2) An application under section 41(1) of the Act shall not, except with the leave of the Court, be made later than 2 years after the date of the adoption to which it relates.

- (3) An application under section 41(1) of the Act may be made by —
- (a) the Department,
  - (b) the adoptive parents,
  - (c) the child,
  - (d) the accredited agency by which the case was dealt with, or
  - (e) the Attorney General;

and the Court may require notice of the application to be served on such persons as it thinks fit.

**35. Application for direction where full adoption has not been made**

(1) An application for a direction under section 29(3A) of the Act may be made by the adopted child, the adopters or the natural parents of the child and shall be made by an originating application in Form 8; and the respondents to the application shall be —

- (a) the Department;
- (b) the adoptive parents (if not the applicant),
- (c) the child (if not the applicant),
- (d) the accredited agency by which the case was dealt with, and
- (e) the Attorney General;

and the Court may require notice of the application to be served on such other persons as it thinks fit.

(2) Any direction given in accordance with section 29(3A) of the Act shall be in Form 9.

**36. Application to declare adoption invalid or determination invalid or affected**

An application for an order or decision under section 41(2) of the Act shall be made by originating application in Form 10; and the adopted person and any adopter, not being the applicant, shall be the respondents to the application.

**37. Evidence in support of application**

(1) Evidence in support of an application under section 40 or 41 of the Act shall be given by means of an affidavit in Form 11 which shall be filed within 14 days after the application.

(2) There shall be exhibited to the affidavit a statement of the facts and there shall be filed with the affidavit expert evidence of any provision of foreign law relating to adoption on which the applicant intends to rely.

(3) The Court may order any deponent to give oral evidence concerning the facts stated in, or exhibited to, his affidavit.

**38. Guardian ad litem**

Where the adopted person is under the age of 18 on the date on which an application under section 40 or 41 of the Act is made, rule 7 applies to the application with any necessary modifications as it applies to an application for an adoption order.

**39. Notice of order under section 40 or 41**

Where under section 40 or 41 of the Act the Court has ordered that an adoption be annulled or revoked or that an adoption or determination shall cease to be valid in the Island, the Chief Registrar shall serve notice of the order on the Department, stating in the notice —

- (a) the date of the adoption;
- (b) the name and address of the authority which granted the adoption; and
- (c) the names of the adopter or adopters and of the adopted person as given in the affidavit referred to in rule 37;

and request the Department to notify the Central Authority of any Convention country which is the country of origin or the receiving country.

**40. Amendment and revocation of orders**

An application under paragraph 4 of Schedule 2 to the Act for the amendment of an adoption order or the revocation of a direction to the Chief Registrar, or under

section 40 of the Act for the revocation of an adoption order, may be made *ex parte* in the first instance, but the Court may require notice of the application to be served on such persons as it thinks fit.