

RULES OF THE SUPREME COURT AMENDMENT RULES 1999

BR 61/1999

SUPREME COURT ACT 1905

1905 : 4

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The Chief Justice in exercise of the powers conferred on him by section 62 of the Supreme Court Act 1905 and section 12 of the International Child Abduction Act 1998 makes the following Rules:

Citation

1 These Rules may be cited as the Rules of the Supreme Court Amendment Rules 1999.

Addition of Order 118

2 The Rules of the Supreme Court 1985 are amended by the addition of the following:

"ORDER 118

PROCEEDINGS UNDER THE INTERNATIONAL CHILD
ABDUCTION ACT 1998

118/1 Interpretation

In this Order—

"the Act" means the International Child Abduction Act 1998;

"the Convention" means the Convention on the Civil Aspects of International Child Abduction which was signed at the Hague on 25th October 1980.

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118/2 Mode of application

Every application under the Convention shall be made by originating summons.

118/3 Contents of originating summons: general provisions

The originating summons under which any application is made under the Convention shall state—

- (a) the name and date of birth of the child in respect of whom the application is made;
- (b) the names of the child's parents or guardians;
- (c) the whereabouts or suspected whereabouts of the child;
- (d) the interest of the plaintiff in the matter and the grounds of the application; and
- (e) particulars of any proceedings (including proceedings out of the jurisdiction and concluded proceedings) relating to the child,

and shall be accompanied by all relevant documents including but not limited to the documents specified in Article 8 of the Convention.

118/4 Contents of originating summons: particular provisions

In applications under the Convention, in addition to the matters specified in rule 3—

- (a) the originating summons under which an application is made for the purposes of Article 8 for the return of a child shall state the identity of the person alleged to have removed or retained the child and, if different, the identity of the person with whom the child is presumed to be;
- (b) the originating summons under which an application is made for the purposes of Article 15 for a declaration shall identify the proceedings in which the request that such a declaration be obtained was made.

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118/5 Defendants

The defendants to an application under the Act shall be—

- (a) the person alleged to have brought into Bermuda the child in respect of whom an application under the Bermuda Convention is made;
- (b) the person with whom the child is alleged to be;
- (c) any parent or guardian of the child who is within Bermuda and is not otherwise a party;
- (d) the person in whose favour a decision relating to custody has been made if he is not otherwise a party; and
- (e) any other person who appears to the court to have a sufficient interest in the welfare of the child.

118/6 Acknowledgement of service

The time limited for acknowledging service of an originating summons by which an application is made under the Convention shall be seven days after service of the originating summons (including the day of service) or, in the case of a defendant referred to in rule 5(d) or (e), such further time as the court may direct.

118/7 Evidence

(1) The plaintiff, on issuing an originating summons under the Convention, may lodge affidavit evidence in the Registry in support of his application and serve a copy of the same on the defendant with the originating summons.

(2) A defendant to an application under the Convention may lodge affidavit evidence in the Registry and serve a copy of the same on the plaintiff within seven days after service of the originating summons on him.

(3) The plaintiff in an application under the Convention may within seven days thereafter lodge in the Registry a statement in reply and serve a copy thereof on the defendant.

118/8 Hearing

Any application under the Act shall be heard and determined by a judge and shall be dealt with in chambers unless the court otherwise directs.

118/9 Dispensing with service

The court may dispense with service of any summons in any proceedings under the Act.

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118/10 Adjournment of summons

The hearing of the originating summons under which an application under the Convention is made may be adjourned for a period not exceeding 21 days at any one time.

118/11 Interim directions

An application for interim directions under section 7 of the Act may, where the case is one of urgency, be made ex parte on affidavit but shall otherwise be made by summons."

Made this 17th day of August, 1999

Chief Justice