



STATUTORY INSTRUMENTS.

S.I. No. 400 of 2020



CIRCUIT COURT RULES (FAMILY LAW: DONOR-ASSISTED HUMAN
REPRODUCTION) 2020

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CIRCUIT COURT RULES (FAMILY LAW: DONOR-ASSISTED HUMAN REPRODUCTION) 2020

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, by virtue of the powers conferred on us by section 66 of the Courts of Justice Act 1924 and section 70 of the Courts of Justice Act 1936, (as applied by section 48 of the Courts (Supplemental Provisions) Act 1961), section 27 of the Courts (Supplemental Provisions) Act 1961, and of all other powers enabling us in this behalf, do hereby, with the concurrence of the Minister for Justice and Equality, make the annexed Rules of Court.

Dated this 3rd day of March 2020.

Patricia Ryan	_____	Chairperson
Jacqueline Linnane	_____	
Tomás Keys	_____	
Fiona Duffy Coady	_____	
Keith Walsh	_____	
Sabina Purcell	_____	
Mairead Ahern	_____	
Rita Considine	_____	
James Finn	_____	

I concur in the making of the above Rules of Court.

Dated this 24th day of September 2020

Helen McEntee

Minister for Justice and Equality

S.I. No. 400 of 2020

CIRCUIT COURT RULES (FAMILY LAW: DONOR-ASSISTED HUMAN REPRODUCTION) 2020

1. (1) These Rules, which may be cited as the Circuit Court Rules (Family Law: Donor-Assisted Human Reproduction) 2020, shall come into operation on the 9th day of October 2020.

(2) These Rules shall be construed together with the Circuit Court Rules 2001 to 2020.

(3) The Circuit Court Rules 2001 to 2020 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2020.

2. Order 59 of the Circuit Court Rules is amended:

(i) by the insertion in sub-rule (1) of rule 1, immediately following the definition therein of the “Children Act” of the following definition:

“the “Children and Family Relationships Act” means the Children and Family Relationships Act 2015 (No. 9 of 2015);”;

(ii) by the substitution for rule 2 of the following rule:

“2.(1) Subject to sub-rules (2) to (6), proceedings under this Order shall be brought in the county where any party to the proceedings ordinarily resides or carries on any profession, business or occupation.

(2) Proceedings for the appointment of a guardian for a child shall be brought in the county where the applicant or the child to whom the application relates ordinarily resides or carries on any profession, business or occupation.

(3) Subject to sub-rule (3A), proceedings under section 22 or section 35 of the Children and Family Relationships Act shall be brought in the county in which an applicant under the section concerned ordinarily resides or carries on any profession, business or occupation.

(3A) Proceedings:

(a) for a declaration of parentage under section 35 of the Status of Children Act shall, where no party to the proceedings ordinarily resides or carries on any profession, business or occupation in the State, be brought in the Dublin Circuit, or

(b) for a declaration of parentage under section 22 or on an appeal under section 35 of the Children and Family Relationships Act shall, where no applicant under the section concerned ordinarily resides or carries on any profession, business or occupation in the State, be brought in the Dublin Circuit.

(3B) Proceedings under section 32 of the Children and Family Relationships Act shall be brought in the county in which the DAHR facility (within the meaning of section 4 of that Act) concerned is located.

(4) Proceedings under the Domestic Violence Act shall be brought:

- (i) in the county where the applicant ordinarily resides (subject to section 22(2) of the Domestic Violence Act), or
- (ii) if the application is for a barring order or an emergency barring order, in the county where the place, in relation to which the application is made, is situated.

(5) Subject to section 4(2) and section 4(3) of the Hague Convention Act, proceedings before the Court under the Hague Convention Act or under the Hague Child Convention by virtue of the Act shall be brought:

- (a) in the case of proceedings to which section 4(1)(c) of the Hague Convention Act applies, in the county in which the child to whom the request relates resides;
- (b) in the case of any other proceedings under the Hague Convention Act or under the Hague Child Convention by virtue of the Hague Convention Act, in such county or Circuit as is prescribed by statute or these Rules for proceedings of the kind concerned.

(6) Proceedings on any application under the Gender Recognition Act shall be brought in the county in which the child on whose behalf the application is being brought ordinarily resides.”;

(iii) by the substitution for paragraph (xiv) of sub-rule (1) of rule 4 of the following paragraphs:

“(xiv) relief under section 22 of the Children and Family Relationships Act;

(xv) relief under the Hague Convention Act or the Hague Child Convention.”;

(iv) by the substitution for the title immediately following rule 13 of the following title:

**“II. Proceedings under:
Guardianship of Infants Act 1964
Family Law (Maintenance of Spouses and Children) Act 1976
Family Home Protection Act 1976
Status of Children Act 1987
Judicial Separation and Family Law Reform Act 1989
Family Law Act 1995
Family Law (Divorce) Act 1996
Children Act 1997
Children and Family Relationships Act 2015”;**

(v) by the insertion immediately following rule 27 of the following rules:

“Additional requirements for Family Law Civil Bill where relief under section 22 of the Children and Family Relationships Act is claimed

27A. A Family Law Civil Bill in which relief is sought under section 22 of the Children and Family Relationships Act shall include the following details—

- (a) the address within the State where every party to the proceedings resides or carries on any profession, business or occupation;
- (b) the date of birth of the child to whom section 20 of the said Act applies;
- (c) the place of birth of the said child;
- (d) the name and address of the person named as the mother of the child, and whether such person is or is not alive;
- (e) the name and address of the “relevant person” (within the meaning of section 22(1) of the said Act) to whom the application relates, and whether such person is or is not alive;
- (f) a brief statement of the grounds on which it is asserted that the child concerned is a child to whom section 20 of the said Act applies, and
- (g) a brief statement of the grounds on which it is asserted that the relevant person was, at the time referred to in section 20(1)(c) of the said Act, an intending parent of the child concerned.

Parties to proceedings for relief under section 22 of the Children and Family Relationships Act

27B. (1) In proceedings for relief under section 22 of the Children and Family Relationships Act, unless such person is an applicant in the proceedings (or is the next friend of the child who is an applicant), the child, the mother of the child, and the relevant person shall be named as respondents to the proceedings.

(2) If any person who would otherwise be named as respondent is not alive or is not available for service of proceedings within the jurisdiction, then the application may be made in the first instance without service on that person.

(3) In proceedings in which relief is sought under section 22 of the Children and Family Relationships Act but not under any other relevant enactment it shall not be necessary for any Affidavit of Welfare to be filed or served before the application for relief under section 22 of the Children and Family Relationships Act is moved, and a party shall only be required to file or serve any Affidavit of Welfare where so directed by the Court.

Proceedings for relief under section 32 or section 35 of the Children and Family Relationships Act

27C. (1) An application under section 32(1)(b) or section 32(2) of the Children and Family Relationships Act shall be brought and conducted in accordance with Order 64B, and any application under section 32(4) of that Act shall be made by notice of motion in the proceedings commenced under section 32(1)(b) or section 32(2) as the case may be.

(2) An appeal under section 35(5) of the Children and Family Relationships Act shall be brought and conducted in accordance with Order 64C and section 35(6) of that Act.”, and

(vi) by the substitution for rules 80 to 82 inclusive of the following rules respectively:

“Directions in proceedings for a declaration of parentage

80. In proceedings for a declaration of parentage, the Court or the County Registrar, as the case may be, may make such orders and give such directions as it or he may deem expedient relating to the said application and to the hearing thereof, including but not limited to:

- (a) in the case of proceedings under the Status of Children Act, the giving of particulars, the provision of information, the sending of papers to the Attorney General, the adding of the Attorney General or any other person as a party to the proceedings, the notification of the application to any person, and any other matter in relation to which applications or directions are provided by Part VI of the Status of Children Act, or
- (b) in the case of proceedings under section 22 of the Children and Family Relationships Act:

- (i) a direction that all necessary papers in the matter be sent to the Attorney General in accordance with section 21(5) (as applied by section 22(4)) of that Act;
- (ii) a direction that such other person as the Court thinks fit be given notice of the application in accordance with section 21(7) (as applied by section 22(4)) of that Act;
- (iii) where so requested by the Attorney General, an order that the Attorney General be added as a party to the proceedings in accordance with section 21(6) (as applied by section 22(4)) of that Act;
- (iv) where notice has been given to such person in accordance with section 21(7) (as applied by section 22(4)) of that Act, an order that such other person as the Court thinks fit be added as a party to the proceedings;
- (v) the provision of further particulars or information, and any other matter to which Part 2 of the Children and Family Relationships Act relates.

Applications by motion in proceedings for a declaration of parentage

81. (1) Every application:

- (i) pursuant to section 35(5) of the Status of Children Act (for a direction that papers be sent to the Attorney General);
- (ii) pursuant to section 35(7) of the Status of Children Act (ordering that a person be added as a party to the proceedings);
- (iii) for judgment in default of Defence,

shall, without prejudice to the power of the Court to act of its own motion, be made by motion on notice to such parties as are affected thereby, which notice shall be served at least four clear days before the hearing of such motion. Service of the notice of motion may, by exception to the provisions of Order 11, rule 5, be effected by ordinary post and shall be deemed to have been effected on the second day following the day of posting.

(2) An application by a party under section 21(5) (as applied by section 22(4)) of the Children and Family Relationships Act (for a direction that all necessary papers in the matter be sent to the Attorney General) or under section 21(7) (as applied by section 22(4)) of the Children and Family Relationships Act (for an order that a person be added as a party to the proceedings) may be made by motion on notice, which notice shall be served at least four clear days before the hearing of such motion.

(3) Service of notices or other documents in proceedings under section 22 of the Children and Family Relationships Act shall be effected by a means permitted by section 42 of that Act.

Form and service of declaration of parentage

82. (1) Any declaration made under section 35 of the Status of Children Act shall be in Form 37G of the Schedule of Forms or such modification thereof as may be appropriate.

(2) Any declaration made under section 22 of the Children and Family Relationships Act shall be in Form 37Y of the Schedule of Forms or such modification thereof as may be appropriate.

(3) A copy of every declaration made under section 35 of the Status of Children Act or section 22 of the Children and Family Relationships Act shall be furnished by the County Registrar to An tArd-Chláraitheóir within ten days of the making of such declaration.”

3. The Form 37Y in the Schedule shall be added to the forms in the Schedule to the Circuit Court Rules immediately following Form 37X.

Schedule

FORM 37Y

AN CHÚIRT TEAGHLAIGH CHUARDA
THE CIRCUIT FAMILY COURT

CIRCUIT

COUNTY OF

DECLARATION - IN THE MATTER OF SECTION 22 OF THE CHILDREN
AND FAMILY RELATIONSHIPS ACT 2015

BETWEEN

Between A.B....., Applicant(s)

and C.D....., Respondent(s)

and in the matter of of in the County of, the “relevant person” within the meaning of section 22 of the Children And Family Relationships Act 2015

TAKE NOTICE that whereas the application of the above named applicant(s) pursuant to section 22 of the Children And Family Relationships Act 2015, came before this Court and was determined on the day of,

THE COURT BEING SATISFIED THAT IT HAS BEEN PROVED ON THE BALANCE OF PROBABILITIES THAT

..... of in the County of , the child to whom the said application relates, having been born on the day of, is a child to whom section 20 of the Children And Family Relationships Act 2015 applies, and

... of ... in the County of ..., the relevant person, was, at the time referred to in section 20(1)(c) of the Children And Family Relationships Act 2015, an intending parent of the said child

NOW IT IS HEREBY DECLARED that of in the County of , the relevant person, is a parent of of in the County of , the child to whom the said application relates.

Which said Declaration is made this day of by His/Her Honour Judge sitting at the Courthouse, in the County of

SEALED with the Seal of this Court byCounty Registrar, this day of20...

Signed

County Registrar

*Delete as appropriate

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These rules amend Order 59 to facilitate the operation of Parts 2 and 3 of the Children and Family Relationship Act 2015 which came into operation on the 4th of May 2020 and in particular in relation to applications for retrospective declarations of parentage for children born in the State as a result of donor-assisted human reproduction procedures which took place prior to the commencement of Parts 2 and 3.

BAILE ÁTHA CLIATH
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