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STATUTORY INSTRUMENTS

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**2010 No. 2955**

**The Family Procedure Rules 2010**

**PART 8**

**PROCEDURE FOR MISCELLANEOUS APPLICATIONS**

**CHAPTER 5**

**DECLARATIONS**

**Scope of this Chapter**

- 8.18.** The rules in this Chapter apply to applications made in accordance with—
- (a) section 55 of the 1986 Act (declarations as to marital status) and section 58 of the 2004 Act (declarations as to civil partnership status);
  - (b) section 55A of the 1986 Act <sup>M1</sup> (declarations of parentage);
  - (c) section 56(1)(b) and (2) of the 1986 Act <sup>M2</sup> (declarations of legitimacy or legitimation); and
  - (d) section 57 of the 1986 Act <sup>M3</sup> (declarations as to adoptions effected overseas).

**Marginal Citations**

- M1** Section 55A was inserted by section 83(1) and (2) of the [Child Support, Pensions and Social Security Act 2000 \(c. 19\)](#).
- M2** Section 56(1) was amended by section 83(5) of and paragraphs 3 and 5(a) of Schedule 8 to the Child Support, Pensions and Social Security Act 2000.
- M3** Section 57 was amended by section 139(1) of and paragraphs 46, and 49(a) and (b) of Schedule 3 to the [Adoption and Children Act 2002 \(c.38\)](#) and section 83(5) of and paragraphs 3 and 6 of Schedule 8 to the Child Support, Pensions and Social Security Act 2000.

**Where to start proceedings**

<sup>F1</sup>**8.19.** .....

**Textual Amendments**

- F1** Rule 8.19 omitted (22.4.2014) by virtue of [The Family Procedure \(Amendment No.3\) Rules 2013 \(S.I. 2013/3204\)](#), [rules 1, 18](#) (with [rule 137](#)); S.I. 2014/954, [art. 2](#)

**Who the parties are**

**8.20.—**(1) In relation to the proceedings set out in column 1 of the following table, column 2 sets out who the respondents to those proceedings will be.

| <i>Proceedings</i>   | <i>Respondent</i>   |
|--|---|
| Applications for declarations as to marital or civil partnership status. | The other party to the marriage or civil partnership in question or, where the applicant is a third party, both parties to the marriage or civil partnership.   |
| Applications for declarations of parentage.                              | [ <sup>F2</sup> (i) The person whose parentage is in issue [ <sup>F3</sup> except where that person is a child]; and<br><br>(ii) any person who is or is alleged to be the parent of the person whose parentage is in issue, except where that person is the applicant [ <sup>F4</sup> or is a child].] |
| Applications for declarations of legitimacy or legitimation.             | The applicant's father and mother or the survivor of them.  |
| Applications for declarations as to adoption effected overseas.          | The person(s) whom the applicant is claiming are or are not the applicant's adoptive parents.   |

[<sup>F5</sup>(Under rule 16.2 the court may make a child a party to certain proceedings (including applications for declarations of parentage) where it considers that to be in the best interests of the child.)]

(2) The applicant must include in his application particulars of every person whose interest may be affected by the proceedings and his relationship to the applicant.

(3) The acknowledgment of service filed under rule 19.5 must give details of any other persons the respondent considers should be made a party to the application or be given notice of the application.

(4) Upon receipt of the acknowledgment of service, the court must give directions as to any other persons who should be made a respondent to the application or be given notice of the proceedings.

(5) A person given notice of proceedings under paragraph (4) may, within 21 days beginning with the date on which the notice was served, apply to be joined as a party.

(6) No directions may be given as to the future management of the case under rule 19.9 until the expiry of the notice period in paragraph(5).

#### **Textual Amendments**

- F2** Words in rule 8.20(1) table substituted (6.4.2012) by [The Family Procedure \(Amendment\) Rules 2012 \(S.I. 2012/679\)](#), rules 1, **15** (with rule 30)
- F3** Words in rule 8.20(1) table inserted (3.10.2016) by [The Family Procedure \(Amendment No. 2\) Rules 2016 \(S.I. 2016/901\)](#), rules 1, **3(a)(i)** (with rule 9)
- F4** Words in rule 8.20(1) table inserted (3.10.2016) by [The Family Procedure \(Amendment No. 2\) Rules 2016 \(S.I. 2016/901\)](#), rules 1, **3(a)(ii)** (with rule 9)
- F5** Words in rule 8.20(1) inserted (3.10.2016) by [The Family Procedure \(Amendment No. 2\) Rules 2016 \(S.I. 2016/901\)](#), rules 1, **3(b)** (with rule 9)

#### **The role of the Attorney General**

**8.21.**—(1) The applicant must, except in the case of an application for a declaration of parentage, send a copy of the application and all accompanying documents to the Attorney General at least one month before making the application.

(2) The Attorney General may, when deciding whether to intervene in the proceedings, inspect any document filed at court relating to any family proceedings mentioned in the declaration proceedings.

(3) If the court is notified that the Attorney General wishes to intervene in the proceedings, a court officer must send the Attorney General a copy of any subsequent documents filed at court.

(4) The court must, when giving directions under rule 8.20(4), consider whether to ask the Attorney General to argue any question relating to the proceedings.

(5) If the court makes a request to the Attorney General under paragraph (4) and the Attorney General agrees to that request, the Attorney General must serve a summary of the argument on all parties to the proceedings.

### **Declarations of parentage**

**8.22.—**(1) If the applicant or the person whose parentage or parenthood is in issue, is known by a name other than that which appears in that person's birth certificate, that other name must also be stated in any order and declaration of parentage.

(2) A court officer must send a copy of a declaration of parentage and the application to the Registrar General within 21 days beginning with the date on which the declaration was made.

**Changes to legislation:**

There are currently no known outstanding effects for the The Family Procedure Rules 2010, CHAPTER 5.