

South Australia

Youth Court (General) Rules 2016

under the *Youth Court Act 1993*

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Schedule 1 – Forms

Part 1—Preliminary

1—Short title

These rules may be cited as the *Youth Court (General) Rules 2016*.

2—Commencement

These rules will come into operation on 1 January 2017.

3—Interpretation

(1) In these rules—

Act means the *Youth Court Act 1993*;

Adoption jurisdiction of the Court means the jurisdiction of the Court under the *Adoption Act 1988*;

care and protection jurisdiction of the Court means the jurisdiction of the Court under the *Children and Young People (Safety) Act 2017*;

criminal jurisdiction of the Court means the jurisdiction of the Court under the *Young Offenders Act 1993*;

direction of the Court means a practice direction or specific direction or order of the Court; and *direct* has a corresponding meaning;

surrogacy jurisdiction of the Court means the jurisdiction of the Court under the *Surrogacy Act 2019*.

(2) In these rules, a reference to an appropriate form for an application to the Court is a reference to a form specified by the Court, by practice direction, for applications of the relevant kind, or a form approved or accepted by the Court or the Registrar in the particular case.

4—Application of rules

These rules apply to all jurisdictions of the Court unless otherwise stated and are to be read together with the *Youth Court (Care and Protection) Rules 2018*, the *Youth Court (Adoption) Rules 2018* and the *Youth Court (Young Offenders) Rules 2016*.

5—Youth Court Rules 1993 revoked

The *Youth Court Rules 1993* are revoked.

6—Object of rules

The object of these rules is the fair, effective, expeditious and efficient conduct of the proceedings of the Court.

Part 2—Rules of general application

7—Seal

- (1) A seal of the Court must bear the name of the Court.
- (2) A seal to be used at a Registry must be in the custody of the Registrar.
- (3) A seal of the Court must be fixed on such process or orders issued out of the Court as the Judge may direct.
- (4) The Judge may direct or approve that documents, or classes of documents, issued from the Court may be authenticated by electronic means specified or approved by the Judge rather than by having the seal physically affixed.

8—Forms

- (1) It is sufficient compliance with these rules, as to the form of any document, if the document is substantially in accordance with the form specified by these rules.
- (2) Forms not provided for by these rules may be prepared at the direction of the Court or by the Registrar on behalf of the Court.
- (3) The party instituting a proceeding or process must prepare the requisite form and must provide such number of copies thereof as the Registrar directs or requires.
- (4) Forms must comply with the requirements as set out in these rules, the *Youth Court (Care and Protection) Rules 2018*, the *Youth Court (Adoption) Rules 2018* and the *Youth Court (Young Offenders) Rules 2016* (as the case requires).

- (5) Forms for use specifically in the surrogacy jurisdiction must use numbering with the prefix S.
- (6) The forms set out in the Schedule must be used for the purposes specified in the Schedule or these rules.

9—Caseflow management

- (1) These rules are made for the purpose of establishing orderly procedures for the conduct of litigation in the Court and of promoting the just and efficient determination of such litigation.
- (2) These rules are not intended to defeat the determination of litigation according to the merits of the case of litigants who are genuinely endeavouring to comply with the procedures of the Court, and are to be interpreted and applied with the purpose set out in subrule (1) in view.
- (3) Proceedings in the Court will be managed and supervised in accordance with a system of positive caseflow management with the objects of –
 - (a) promoting the just determination of litigation; and
 - (b) disposing efficiently of the business of the Court; and
 - (c) maximising the efficient use of available judicial and administrative resources; and
 - (d) facilitating the timely disposal of business at a cost affordable by the parties,and these rules are to be construed and applied, and the processes and procedures of the Court conducted, so as best to ensure the attainment of these objects.
- (4) The practice, procedure and processes of the Court must have as their goal the elimination of any lapse of time, from the date of initiation of proceedings to their final determination, that is not reasonably required for the identification of factual and legal issues genuinely in dispute between the parties and the preparation of the case for trial or other disposition.
- (5) To these ends –
 - (a) parties to proceedings are required to be ready to proceed to trial by the date of the hearing at which a trial date is set; and
 - (b) parties must fully comply with these Rules, the *Youth Court (Care and Protection) Rules 2018*, the *Youth Court (Adoption) Rules 2018* and the *Youth Court (Young Offenders) Rules 2016* regarding pre-trial preparation; and
 - (c) a trial date which has been fixed will not be postponed unless the justice of the case, assessed, having regard to the obligations of the parties pursuant to paragraph (a), so requires.
- (6) If an application is made at trial to amend proceedings, particulars or other process and the amendment would cause the trial to be postponed or adjourned, the Court may refuse the application so as to protect the integrity of the caseflow management system and implement the requirement that trials proceed at the time appointed, even if any injustice to the opposing party could have been avoided by an order for costs, adjournment or otherwise.
- (7) The Court may, from time to time –
 - (a) establish and publish time performance standards for the various stages of proceedings before the Court as may be necessary or desirable for the most efficient disposal of its business; and
 - (b) by written practice direction, establish and promulgate case listing tracks on a differential basis (and, thereafter, all proceedings must comply with these standards).
- (8) The Court may at any time on its own initiative –
 - (a) review the progress of any proceedings and make orders or give directions to lead to the efficient and timely disposal of the proceedings; and
 - (b) make such orders concerning time defaults committed by a party to the proceedings as the Court considers just and expedient in the circumstances.
- (9) If there is time default or the conduct of a party is otherwise contrary to the objects stated in subrule (3), the Court may, in order to protect the integrity of the caseflow management system and implement the Court's requirements that matters proceed at the time fixed for hearing (whether by way of trial or otherwise), dismiss the proceedings even if any injustice to the opposing party could have been avoided by an order for costs or some other order.

10—Practice directions

- (1) The Judge may issue, vary or revoke Practice Directions.
- (2) The practice and procedure of the Court must, subject to these rules and the *Youth Court (Care and Protection) Rules 2018*, the *Youth Court (Adoption) Rules 2018* and the *Youth Court (Young Offenders) Rules 2016*, be in conformity with the Practice Directions.
- (3) The Registrar of the Principal Registry must maintain a register of all Practice Directions.

11—Power to give directions

- (1) The Court may on its own initiative or on application by any person make any order that it considers appropriate in the interests of justice.
- (2) For example, the Court may—
 - (a) order that a provision of these rules, the *Youth Court (Care and Protection) Rules 2018*, the *Youth Court (Adoption) Rules 2018* or the *Youth Court (Young Offenders) Rules 2016* not apply or apply in a modified way or dispense with compliance (whether before or after compliance is or was required);
 - (b) make an order that is inconsistent with or in lieu of a provision of these rules;
 - (c) fix or vary the time fixed by or under a provision of these rules or a court order;
 - (d) make an order subject to conditions;
 - (e) specify consequences of an event referred to in, or of non-compliance with, an order;
 - (f) make or refuse any order sought by a person or make a different order;
 - (g) make an order on its own initiative;
 - (h) set aside a step taken in a proceeding in breach of these rules or an order or for other cause;
 - (i) direct the Registrar to do or not to do a thing;
 - (j) give a direction when uncertainty is expressed about the effect of these rules;
 - (k) make an order regarding a proceeding not yet instituted;
 - (l) make an order regarding the form of a document to be filed including imposing additional requirements about the filing or form of documents;
 - (m) order the amendment of, or itself amend, a document;
 - (n) order that a document be uplifted and removed from the file;
 - (o) order production of a document notwithstanding that a lawyer or other person claims a lien over it;
 - (p) order the stay of a proceeding, of a step in or order made in a proceeding or of enforcement of a judgment or order; or
 - (q) make any order as to costs.
- (3) Without affecting the generality of subrule (1), the Court may give directions about the procedure to be followed in a proceeding—
 - (a) when these rules do not address or address fully a procedural matter that arises in a proceeding;
 - (b) to resolve uncertainty about the correct procedure to be adopted (including commencing a proceeding or appellate proceeding); or
 - (c) in any other case, when the Court thinks fit.
- (4) The Chief Judicial Officer may –
 - (a) modify or delete a prescribed form contained in Schedule 1; or
 - (b) prescribe the form and content of additional defined types of documents to be filed at court (**prescribed forms**).
- (5) The Court may if it thinks fit order that a specified provision of the *Uniform Civil Rules 2020* apply to a proceeding in the Court.

- (6) The conferral by these Rules of specific powers on the Court does not affect the generality of the power conferred by this rule.

12—Custody of records

- (1) The Registrar has the custody of all records and proceedings of the Court and of all evidentiary material filed with, or submitted to, the Court.
- (2) Subject to any Act, rule or order of the Court, a party to a proceeding, or a solicitor or counsel for a party to a proceeding, may search or inspect any record in the proceeding or take or request a copy thereof (on payment of the appropriate fee).
- (3) Subject to any Act, rule or order of the Court, a person other than a party or a party's solicitor or counsel is not entitled to search or inspect any records or take or request any copy thereof without first having obtained the leave of a Judge.
- (4) A Judge or Magistrate of the Court may give such directions as may be necessary to produce a record of the Court to any other Court or tribunal.
- (5) Subject to an order of the Court, the Registrar has custody of all exhibits until the expiration of any relevant appeal or review period.
- (6) At the end of any period applying under subrule (5), the Registrar will return the exhibit to the person who produced the exhibit, or the solicitor for the party tendering the exhibit.
- (7) The person to whose custody an exhibit is returned is liable for any costs incurred by the Registrar in returning the exhibit.
- (8) In the event that the Registrar is unable to return an exhibit in accordance with this rule, the Court may make such order as it thinks fit for the custody or disposal of the exhibit.
- (9) The Registrar may keep a record of proceedings of the Court in electronic form.

13—Electronic Court Management System

- (1) The Registrar must establish an electronic court management system (*the Electronic System*) to perform such of the Registrar's general functions and for use by judicial and non-judicial officers of the Court and external users as the Registrar determines.
- (2) For example, the Electronic System may enable –
 - (a) the creation, filing or service of documents in electronic form;
 - (b) the use of electronic signatures by parties, lawyers or other persons;
 - (c) the electronic issue of the Court's process;
 - (d) the use of electronic signatures by judicial or non-judicial officers, sheriff's officers or other persons performing functions on behalf of the Court;
 - (e) communications between users and the Court in electronic form;
 - (f) the electronic listing of hearings, directions hearings and trials;
 - (g) the creation, retention or deletion of electronic records of proceedings in the Court;
 - (h) the receipt, retention or deletion of electronic documents tendered in proceedings, produced in response to a subpoena or otherwise produced to the Court; or
 - (i) controlled access by internal or external users to court records.
- (3) The Registrar may determine that it is mandatory that all or specified classes of documents lodged for filing by all or specified classes of persons be filed electronically via the Electronic System and to that extent the Registry will not accept physical documents for filing.
- (4) The Electronic System may be established by the Registrar in conjunction with other courts.
- (5) If it is mandatory for a person to file a document electronically via the Electronic System, the Registrar or the Court may waive that requirement if and to such extent and on such conditions as the Registrar or the Court thinks fit.

13A—Registered users

- (1) The Registrar may only permit a person other than a judicial or non-judicial officer of a court participating in the Electronic System to have access to the Electronic System if the person is a registered user.
- (2) The Registrar may establish a system for a person to become a registered user and may exercise a general discretion whether to admit a person as a registered user.
- (3) The Registrar may impose conditions on the use of the Electronic System by registered users, a class of registered users or individual registered users.
- (4) The Registrar may cancel the registration of a person if, in the opinion of the Registrar, the person—
 - (a) is not a fit and proper person to be a registered user;
 - (b) should not have been admitted as a registered user; or
 - (c) has breached a condition of the terms of use of the Electronic System published by the Registrar on the Electronic System’s portal.

13B – Originals of documents uploaded into the Electronic System

- (1) A party who uploads a document electronically into the Electronic System (whether self-represented or represented by a law firm) undertakes to the Court that the document uploaded is identical to the original document.
- (2) A law firm who uploads a document electronically into the Electronic System undertakes to the Court that the document uploaded is identical to the original document.
- (3) A document comprising or including an affidavit or statutory declaration uploaded electronically into the Electronic System must be the original bearing the original signature of the deponent and attesting witness and not a copy.
- (4) A registered user who uploads a document comprising or including an affidavit or statutory declaration electronically into the Electronic System undertakes to the Court—
 - (a) that the document uploaded is the original document bearing the original signature of the deponent and attesting witness and not a copy;
 - (b) to retain possession of the original document until finalisation of the proceeding and any appeal and expiration of any appeal period; and
 - (c) to produce the original document upon request by the Court.

13C – Official Record of the Court

- (1) If a document is filed with, or issued by, the Court in electronic form or converted by the Court by scanning or otherwise into electronic form, the document in electronic form represents the official record.
- (2) If no electronic version of a document is created by the Court, the physical document is the official record.

14—Filing and service

- (1) The Registrar must cause the date of filing to be marked on every document filed in the Court.
- (2) A document to be filed must not be lodged by fax transmission without the permission of the Registrar.
- (3) An address for service, contact person, and telephone number (and, if applicable, the fax number) of any party filing or serving a document must, unless the Court or a Registrar directs otherwise, appear on the document.
- (4) The Registrar must endorse the Court copy of the document showing the date of service by the Registrar.
- (5) The records of the Registrar may be accepted as proof of service of a document by the Registrar.
- (6) In any other case, service may be proved by completing the proof of service certificate on the relevant form or in such other manner as the Court requires.
- (7) Where provided for, a form filed by electronic filing will be taken to be filed on the day when it is accepted for filing by the Courts Administration Authority.

15—Witnesses

- (1) A summons to a witness must be in the form prescribed by these rules.

(2) A summons to a witness must not, without the permission of the Court or Registrar, be served less than 7 days before the date on which the evidence is required to be given, or the evidentiary material produced, under the summons.

(3) Service of a summons to a witness may be proved by affidavit or by certificate in the prescribed form.

Prescribed forms—

Form G10A Affidavit of Proof of Service
Form G10B Certificate of Proof of Service

(4) A warrant under section 18 of the Act to have a person arrested must be in the prescribed form.

Prescribed form—

Form G3 Warrant of Apprehension – Witness

(5) A summons under section 18 of the Act must be in the prescribed form.

Prescribed forms—

Form G2 Witness Summons Criminal
Form G2A Witness Summons to Attend to Give Evidence
Form G2B Witness Summons to Produce Documents
Form G2C Witness Summons to Attend and Produce

(6) The Court may require a party who has made an application for a summons to be issued under section 18(1) of the Act to tender appropriate travelling and sustenance expenses to the person to whom the summons is to issue.

(7) The Court may also order the applicant to pay any other reasonable expenses incurred in meeting the requirements of a witness in complying with the summons, including the cost of producing evidentiary material to the Court.

(8) If a person fails to comply with a summons under section 18(1) of the Act, the Court may decline to issue a warrant to have that person arrested and brought before the Court if, at the time of the service of the summons, there was not tendered to the person, appropriate travelling and/or sustenance expenses and/or other reasonable expenses to compensate the person for the expense of complying with the summons.

(9) A witness summons that is vexatious, oppressive or an abuse of process may be set aside by the Court on application by a party or person with sufficient interest.

(10) The Court may, in acting under subrule (9), set aside the witness summons in whole or in part, or grant other relief in respect of it.

(11) Where an application is made to set aside a witness summons, the Court may direct that notice be given to all parties to the proceedings.

(12) Unless a summons specifically requires a person to produce the original, the addressee may produce a copy of any document required in a format that can be accessed by the Court.

15A—Warrant or summons to produce person in custody

(1) A warrant to produce a person held in custody in the State to give evidence or attend at a hearing of a proceeding is to be in the prescribed form.

Prescribed form—

Form G9 Warrant to Bring Person in Custody

(2) A summons to produce a person held in custody in the State to give evidence or attend at a hearing of a proceeding is to be in the prescribed form.

Prescribed form—

Form G5 Summons to Produce Person in Custody

Note—

Section 21 of the *Youth Court Act 1993* empowers the Court to issue a summons or warrant that a person held in custody be brought before the Court for examination.

Section 28(2) of the *Correctional Services Act 1982* provides that where a prisoner is required to attend before a court as a party to proceedings or as a witness, the court may, by order, direct the Chief Executive to cause the prisoner to be brought before the Court in accordance with the order.

15B—Contempt

- (1) This rule applies when the accused admits guilt or the Court finds the accused guilty of contempt.
- (2) The Court may punish contempt by a fine or, if the accused is an individual, by imprisonment.
- (3) If the Court imposes imprisonment, the Court will issue a warrant of commitment in the prescribed form.

Prescribed form—

Form G7 Warrant of Commitment

- (4) If the Court imposes a fine, the Court may—
 - (a) fix the time for payment of the fine; or
 - (b) if the accused is an individual—fix a term of imprisonment in default of payment of the fine.
- (5) The Court may—
 - (a) if the accused provides an undertaking to the Court to observe conditions determined by the Court and to appear for the determination of penalty upon a breach of those conditions—release the accused without imposing penalty; or
 - (b) if the accused provides an undertaking to the Court to observe conditions determined by the Court—suspend the carrying into effect of a penalty for contempt.

16—Application to quash or stay proceedings

- (1) An application to quash or stay proceedings (including an application made on the grounds of an abuse of process) must be made by an interlocutory application and be filed 14 days prior to the date set for trial.
- (2) An affidavit in the prescribed form must be filed with the application.

Prescribed form—

Form G8 Affidavit

- (3) The Registrar must serve a copy of the application and supporting affidavit on the interested parties.

17—Contact information

An address for personal service and the telephone number of the party filing or serving a document must appear on the document unless the Court or Registrar directs otherwise.

18—Legal representation

The legal representative of a party to proceedings must inform the Court of that status and of any change in the status as soon as practicable.

19—Proceedings brought forward

Notwithstanding that proceedings are listed for a future date and time, the Court may on its own initiative or on the application of a party bring the proceedings forward.

20—Affidavit evidence

- (1) In any proceedings before the Court, a matter may be proved by affidavit without the necessity of calling oral evidence unless the other party objects or the Court directs otherwise.
- (2) A party intending to rely on an affidavit must serve the other party with a copy of the affidavit at least 21 days before the hearing together with a copy of this rule.
- (3) The party on whom an affidavit is served may, at least 10 days before the hearing, object by notice in writing (giving detailed reasons for the objection) to the party intending to rely on the affidavit. Service of an affidavit or notice may be effected by post on the party or on the party's legal representative.
- (4) The Court may order costs against a party unreasonably objecting to the use of an affidavit.
- (5) The Court may, if it is not satisfied that a genuine dispute exists between the parties or that compliance with the rules of evidence might involve unreasonable expense or delay, direct that certain evidence be given by way of affidavit.

- (6) Where any proceedings before the Court or a Registrar may be dealt with without notice to another party, any matter may be proved by affidavit filed in the registry without service on the other party.

21—Records of proceedings

- (1) Subject to this rule and to any contrary direction of the Court, the making of a record of persons, things, or events in court is not permitted.
- (2) Subrule (1) does not apply to Courts Administration Authority staff acting in the course of their office or employment.
- (3) Despite subrule (1)-
- (a) a party to a proceeding which is being heard by the Court, a legal practitioner, law clerk or student, or a bona fide member of the media, may make a handwritten or electronic note of persons, things or events in court; and
 - (b) a bona fide member of the media may make an audio recording of proceedings for the sole purpose of verifying notes and for no other purpose.
- (4) A party to proceedings must seek leave of the Court prior to using an electronic device in court.
- (5) Any record made in court permitted by this rule-
- (a) must be made in a manner which does not interfere with court decorum, not be inconsistent with court functions, not impede the administration of justice, and not interfere with the proceedings; and
 - (b) must not interfere with the Court's sound system or other technology; and
 - (c) must not generate sound or require speaking into a device.
- (6) Any audio recording made by a member of the media under this rule-
- (a) must not record any private conversation occurring in court; and
 - (b) must not be made available to any other person or used for any other purpose; and
 - (c) must be erased entirely within 48 hours of the recording.
- (7) For the purpose of this rule, *record* means a record made by any means whatsoever, including by handwriting, other physical means, audio and/or visual recording or electronic record.
- (8) For the purpose of this rule, *electronic note* means a text based note.

22—Electronic communication to and from court

- (1) Unless the Court otherwise orders and subject to the following subrules, communication using an electronic device to and from a court during proceedings is not permitted.
- (2) This rule does not apply to court staff acting in the course of their office or employment.
- (3) Subject to subrules (4) and (5)—
- (a) a party to a proceeding being heard by the Court or a lawyer may communicate using an electronic device to and from a court during proceedings; and
 - (b) a bona fide member of the media may communicate using an electronic device to and from a court during proceedings for the sole purpose of reporting on proceedings.
- (4) Any electronic communication permitted by subrule (3) must—
- (a) be made in a manner that does not interfere with the proceedings, Court decorum or the Court's sound system or other technology; and
 - (b) not involve speech or otherwise generate sound.
- (5) Any electronic communication of evidence adduced or a submission made in a proceeding by a bona fide member of the media permitted by subrule (3)(b) must not be made until at least 15 minutes have elapsed since the later of—
- (a) the evidence or submission being given or made; and
 - (b) the Court ruling on any application for suppression or objection made in relation to the evidence or submission within that period of 15 minutes.

- (6) In this rule, *electronic device* means any device capable of transmitting or receiving information, audio, video or other matter (including (without limitation) a cellular phone, computer, personal digital assistant or audio or visual camera).

23—Payment of advisors, elders and experts

The Court may appoint such cultural advisors, Aboriginal elders and experts within any field as it sees fit to advise it in the conduct of its work and pay them in accordance with rates determined by the Registrar from time to time

24—Interpreters

- (1) If a party or witness of a party needs the services of an interpreter, the party, on receiving the date fixed for the trial, must immediately notify the Registrar of that need and of the language and dialect to be interpreted.
- (2) If the party fails to so notify the Registrar in accordance with the requirements of subrule (1), costs occasioned by the non-attendance of the appropriate interpreter may be ordered against the party in default.

25—Authority to enter and inspect

An authority under section 20(2) of the Act to enter or inspect must be issued in the prescribed form at the direction of a Judge or Magistrate of the Court.

Prescribed form—

Form G4 Authorisation to Enter and Inspect (Land/Building)

26—Appeals

- (1) An appeal under section 22(2)(a) or (b)(ii) or (iii) of the Act must be instituted by filing in the Principal Registry of the Supreme Court, and serving on all parties, the appropriate Notice of Appeal.
- (2) A Notice of Appeal under section 22(2)(b)(i) of the Act must be in the prescribed form.

Prescribed form—

Form G6 Appeal from Interlocutory Judgment of Magistrate/Special Justice

- (3) An appeal under section 22(2)(b)(i) of the Act must be instituted within 14 days from the giving of the interlocutory judgment complained of, or such extended time as the Court may fix.
- (4) The Judge may give such directions as the Judge thinks fit for the conduct of an appeal under section 22(2)(b)(i) of the Act.

Part 3—Surrogacy applications

27—Orders as to parentage of a child

- (1) An application to the Court under section 18 of the *Surrogacy Act 2019* must be made in the prescribed form.

Prescribed form—

Form S1 Application for an Order of the Court (Surrogacy)

- (2) An application for an order under section 18(1) of the Act must be accompanied by a copy of the lawful surrogacy agreement.
- (3) An application under subrule (1) must be supported by an affidavit or affidavits in the prescribed form that sufficiently set out the evidence on which the application is based after taking into account the nature and effect of the order or orders that are being sought from the Court.

Prescribed form—

Form S6 Affidavit

- (4) If the information required for the purposes of section 18(3) of the *Surrogacy Act 2019* is not provided to the Court as part of the application under subrule (1), the information must be filed at the Court, and served on any other party to the proceedings, at least 5 business days before the next date set for the hearing of the proceedings (unless the Court allows or directs otherwise).

- (5) Unless the applicant is seeking the Court’s consent to dispense with the requirement for the surrogate mother’s consent under section 18(5)(c) of the *Surrogacy Act 2019*, an application under section 18(1) of the *Surrogacy Act 2019* must also be accompanied by an affidavit of the surrogate mother in the prescribed form.

Prescribed form—

Form S6 Affidavit

- (6) Without limiting the requirements under subrules (3) and (5), the applicant or applicants for an order under section 18(1)(a) of the *Surrogacy Act 2019* must ensure that each of the requirements of section 10 of the *Surrogacy Act 2019* are addressed by affidavit filed in the Court (subject to any order of the Court under section 18(7) of that Act).

Prescribed form—

Form S6 Affidavit

28—Court may dispense with consent of surrogate mother

The Court may dispense with the requirement for the surrogate mother’s consent under section 18(5)(c) of the *Surrogacy Act 2019* on its own initiative if the Court is satisfied as to a matter under section 18(6) of the *Surrogacy Act 2019*.

29—Assessment by accredited counsellor

- (1) An assessment by an accredited counsellor for the purposes of section 18(10) of the *Surrogacy Act 2019* must be in writing.
- (2) The party required to provide the assessment must ensure that a copy of the assessment is filed at the Court, and served on any other party to the proceedings, at least 5 business days before the next date set for the hearing of the proceedings (unless the Court allows or directs otherwise).

30—Order to revoke an order

- (1) An application to the Court under section 19(1) of the *Surrogacy Act 2019* must be made in the prescribed form.

Prescribed form—

Form S2 Application to Revoke Order (Surrogacy)

- (2) An application under subrule (1) must be supported by an affidavit in the prescribed form that sufficiently sets out the evidence on which the application is based.

Prescribed form—

Form S6 Affidavit

31—Application to intervene

- (1) An application for leave to intervene in proceedings under section 19(4) of the *Surrogacy Act 2019* must be made in the prescribed form.

Prescribed form—

Form S3 Application for Leave to Intervene

- (2) An application under subrule (1) must be supported by an affidavit in the prescribed form that sufficiently sets out the evidence on which the application is based.

Prescribed form—

Form S6 Affidavit

32—Responses

- (1) This rule applies to an application to the Court for an order under section 19 of the *Surrogacy Act 2019*.
- (2) A party to an application who opposes the application in whole or part must file a response in the prescribed form.

Prescribed form—

Form S4 Response to Application to Revoke Order

- (3) A response —
- (a) must state clearly the grounds of objection; and
 - (b) should be supported by material that provides evidence of any matter that is relevant to the ground or grounds of objection.
- (4) Material in support of a response may be in the form of—
- (a) an affidavit (including annexures); or
 - (b) expert reports; or
 - (c) subject to a direction of the Court, other documentary evidence.
- (5) The response, and material in support of the response, must be filed in the Court and, served on the other parties, at least 5 business days before the date set for the hearing of the proceedings (unless the Court allows or directs otherwise).
- (6) Leave to file further material may be sought orally and at any stage of the proceedings and served on the other parties at least 2 business days before the date set for the hearing of the proceedings (unless the Court allows or directs otherwise).

33—Supporting material—other requirements

- (1) The Court may direct a party to file further particulars or materials to assist in the Court’s determination of the outcome that is in the best interests of the child or as to any other matter directed by the Court.
- (2) The Court may direct that any further particulars must be supported by an affidavit in the prescribed form.

Prescribed form—

Form S6 Affidavit

- (3) Material in support of an application under this rule must be filed in the Court and, served on the other parties, at least 5 business days before the next date set for the hearing of the proceedings (unless the Court allows or directs otherwise).
- (4) After the expiration of the period that applies under subrule (3), material in support of an application may only be filed in the Court with leave and on such terms or conditions as the Court directs.
- (5) Leave to file further material may be sought orally and at any stage of the proceedings and served on the other parties at least 2 business days before the next date set for the hearing of the proceedings (unless the Court allows or directs otherwise).

34—Interlocutory applications

- (1) This rule does not apply to an application of a kind excluded by the Court by practice direction.
- (2) An interlocutory application must be made in the prescribed form and supported by an affidavit in the prescribed form.

Prescribed form—

Form S5 Interlocutory Application

Form S6 Affidavit

- (3) Nothing prevents an interlocutory application from being combined with an application for a final order of the Court.
- (4) The applicant must serve a copy of the application (and accompanying documents) on the other parties as soon as practicable after it is filed in the Court, but not later than 2 business days before the next date set for the hearing of the proceedings (unless the Court allows or directs otherwise).
- (5) The Court may, on conditions the Court considers appropriate, dispense with a requirement of this rule—
- (a) if the urgency of the case requires; or
 - (b) by consent of the parties; or
 - (c) if for any other reason the Court considers it appropriate to do so.

- (6) The Court may determine an interlocutory application without hearing oral submissions from the parties if—
- (a) the urgency of the case requires; or
 - (b) the application is not contentious; or
 - (c) the Court decides on the application of a party to determine the application on the basis of written submissions.
- (7) On an interlocutory application, the Court may give directions relating to the proceedings irrespective of whether the applicant has asked for such directions in the application.

35—Directions hearings

- (1) This rule applies to an application under section 18(1) or 19(1) of the *Surrogacy Act 2019*.
- (2) An application may be listed for a directions hearing at a time determined by the Court.
- (3) At a directions hearing, the Court may give 1 or more of the following directions:
 - (a) limiting the issues to be determined at the hearing of the application;
 - (b) requiring or relating to the discovery, inspection and copying of evidentiary material;
 - (c) arranging for the calling of witnesses;
 - (d) arranging for the preparation, provision or production of any report;
 - (e) any other direction that may facilitate the hearing of the application before the Court
- (4) Nothing in this rule limits any directions that may, in any event, be given before or at the hearing of an application.

36—Proof of service

- (1) If an application or other document is required to be served on another party for the purposes of this Part, the Court may decline to consider the application or document until proof of service of the application has been filed in, or produced to, the Court.
- (2) Proof of service of an application or document may consist of an affidavit made by the person who served the application or document setting out—
 - (a) the date, time and place of service; and
 - (b) how the person to be served was identified; and
 - (c) how service was effected.
- (3) The Court may, however, require or permit oral evidence of service.
- (4) An affidavit of proof of service must be in the prescribed form.

Prescribed form—

Form G10A Affidavit of proof of service

Schedule 1 – Forms

General Forms:

- Form G1 Application for an Order of the Court.....
- Form G2 Witness Summons Criminal.....
- Form G2A Witness Summons to Attend to Give Evidence
- Form G2B Witness Summons to Produce Documents.....
- Form G2C Witness Summons to Attend and Produce
- Form G3 Warrant of Apprehension of Witness.....
- Form G4 Authorisation to Enter and Inspect (Land or Building).....
- Form G5 Summons to Produce Person in Custody
- Form G6 Appeal from Interlocutory Judgment of Magistrate or Special Justice.....
- Form G7 Warrant of Commitment – Contempt
- Form G8 Affidavit.....
- Form G9 Warrant to Produce Person in Custody
- Form G10A Affidavit of Proof of Service.....
- Form G10B Certificate of Proof of Service.....
- Form G11 Warrant to Apprehend a Youth.....
- Form G12 Mandate Remanding a Youth
- Form G13 Notice for the Payment of Money.....

Surrogacy Forms:

- Form S1 Application for an Order of the Court (Surrogacy)
- Form S2 Application to Revoke Order (Surrogacy)
- Form S3 Application for Leave to Intervene.....
- Form S4 Response to Application to Revoke Order
- Form S5 Interlocutory Application.....
- Form S6 Affidavit.....
- Form S7 Order.....
- Form S8 Notice to Births, Deaths and Marriages

Made by the Judge and the Magistrates who are members of the principal judiciary of the Youth Court of South Australia on this 24th day of August 2020.

Judge P. ELDRIDGE

Magistrate L. DAVIS

Magistrate D. WHITE

Magistrate O. KOEHN

Please Note: The Schedule of Forms has been updated following Gazettal on 27 August 2020 pursuant to Rule 11(4) of the *Youth Court (General) Rules 2016* (SA).

For the most updated version of an individual form, please navigate to the ‘View the individual approved forms’ link via the Youth Court website.