

2002 No. 150

EVIDENCE

**The Blood Tests (Evidence of Paternity) (Amendment) Regulations
(Northern Ireland) 2002**

Made 15th April 2002

Coming into operation 7th May 2002

To be laid before Parliament

The Lord Chancellor, in exercise of the powers conferred by Article 10 of the Family Law Reform (Northern Ireland) Order 1977(a) and now vested in him(b), hereby makes the following regulations:—

Citation, commencement and interpretation

1. These Regulations may be cited as the Blood Tests (Evidence of Paternity) (Amendment) Regulations (Northern Ireland) 2002 and shall come into operation on 7th May 2002.

2. In these Regulations “the principal Regulations” means the Blood Tests (Evidence of Paternity) Regulations (Northern Ireland) 1978(c) and any reference to a regulation or Form by number alone is a reference to the regulation or Form so numbered in the principal Regulations.

Saving

3. The amendments made to the principal Regulations by these Regulations shall not apply in respect of proceedings commenced before these Regulations come into operation.

Amendment of the principal Regulations

4. In regulation 2(1)—

- (a) in the definition of “court”, for the words “blood tests” substitute the words “scientific tests”;
- (b) for the definition of “sample”, substitute the following new definition—
“sample” means bodily fluid or bodily tissue taken for the purpose of scientific tests”;
- (c) in the definition of “sampler”, for the words “nominated in a direction form to take blood samples for the purposes of the direction” substitute the words “, or a person who is under the supervision of such a practitioner and is either a registered nurse or a registered medical laboratory technician, or a tester;”;
- (d) in the definition of “subject”, for the words “blood samples” substitute the words “bodily samples”;
- (e) for the definition of “tester”, substitute the following new definition—
“tester” means an individual employed to carry out tests by a body which has been accredited for the purposes of Article 8 of the Order by the Lord Chancellor or by a body appointed by him for those purposes and which has been nominated in a direction to carry out tests;”;

(a) S.I. 1977/1250 (N.I. 17); Article 10 was amended by section 65 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) and section 3 of the Family Law Act (Northern Ireland) 2001 (c. 12)

(b) Functions of the Secretary of State were transferred to the Lord Chancellor by virtue of Article 13 of, and Schedule 3 to, the Family Law (Northern Ireland) Order 1993 (S.I. 1993/1576 (N.I. 6))

(c) S.R. 1978 No. 379, to which the most recent relevant amendments were effected by S.R. 1987 No. 375 and S.R. 1990 No. 212

- (f) in the definition of “tests”, for the words “blood tests” substitute the words “scientific tests” and for the words “characteristics of blood” substitute the words “characteristics of bodily fluids or bodily tissue”.
5. In regulation 2(2), for the words “blood tests” substitute the words “scientific tests”.
6. In regulation 6(3), after “(i)” insert the words “in the case of a blood sample,”.
7. In regulation 7—
- (a) in paragraph (2), delete the words from “unless the direction form” to the end;
- (b) paragraph (4) shall be omitted;
- (c) at the end of paragraph (5)(b) add “; or” and the following new sub-paragraph—
- “(c) where he is under the age of sixteen years, and the person with care and control of him does not consent, the court has nevertheless ordered that a sample be taken.”; and
- (d) in paragraph (8), delete the words “and by that subject or, if he is under a disability, the person accompanying him”.
8. In regulation 8(1), for the words “special delivery service” substitute the words “recorded delivery”.
9. In regulation 9(1) for the words “medical practitioner” substitute the word “sampler”.

10. After regulation 9, insert the following new regulation—

“Accreditation

9A.—(1) Subject to paragraph (2), a body shall not be eligible for accreditation for the purposes of Article 8 of the Order(a) unless it is accredited to ISO/ IEC/17025(b) by an accreditation body which complies with the requirements of ISO Guide 58(c).

(2) A body which employs a person who at the date of the coming into force of the Blood Tests (Evidence of Paternity) (Amendment) Regulations (Northern Ireland) 2002 was a tester appointed by the Lord Chancellor shall, until three years after that date, be eligible for accreditation for the purposes of Article 8 of the Order notwithstanding that it does not comply with paragraph (1).”.

11. In regulation 10(2), for the words “the father of a subject whose paternity is in dispute” substitute the words “the father or mother of the person whose parentage falls to be determined”.

12. In Form 1—

- (a) for the words “blood tests”, wherever they appear, substitute the words “scientific tests”;
- (b) for the word “paternity”, wherever it appears, substitute the word “parentage”;
- (c) for the words “blood sample” substitute the words “bodily sample”; and
- (d) for the words “blood samples” substitute the words “bodily samples”.

13. In Form 1—

(a) in Part II

- (i) after the words “*to whom form relates*” insert the following new paragraph—
- “[*The sample is to be taken notwithstanding the refusal to consent of the person with care and control of (*name of person to whom form relates*).]”

*Delete if not applicable

(a) S.I. 1977/1250 (N.I. 17). Article 8 was amended by section 65 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4) and section 3 of the Family Law Act (Northern Ireland) 2001 (c. 12)

(b) General Requirements for the Competence of Testing and Calibration Laboratories, obtainable from any of the sales outlets operated by the British Standards Institute.

(c) Calibration and Testing Laboratory Accreditation Systems—General Requirements in Operation and Recognition, obtainable from any sales outlets operated by the British Standards Institute

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Blood Tests (Evidence of Paternity) Regulations (Northern Ireland) 1978 to give effect to amendments made to Part III of the Family Law Reform (Northern Ireland) Order 1977 by the Family Law Act (Northern Ireland) 2001 (c. 12) and the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4). Part III of the 1977 Order permits blood tests to be used to determine paternity in civil proceedings. The amendments make it possible for samples to be taken of bodily tissue and bodily fluid other than blood and for scientific tests to be used to establish whether a person is the mother of the person whose parentage falls to be determined, as well as whether a person is the father. They provide that tests are to be carried out by an accredited body, rather than a named individual and lay down the conditions which a body must meet if it is to be accredited. They also reflect the courts' new jurisdiction to order that a sample be taken from a person under 16, where it would be in his best interests for the sample to be taken, even though the person with care and control of him does not consent.

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