



# Family Law Reform Act 1969

## 1969 CHAPTER 46

### PART III

#### PROVISIONS FOR USE OF BLOOD TESTS IN DETERMINING PATERNITY

#### 20 <sup>x1</sup>Power of court to require use of blood tests.

[<sup>F1</sup>(1) In any civil proceedings in which the parentage of any person falls to be determined, the court may, either of its own motion or on an application by any party to the proceedings, give a direction—

- (a) for the use of scientific tests to ascertain whether such tests show that a party to the proceedings is or is not the father or mother of that person; and
- (b) for the taking, within a period specified in the direction, of bodily samples from all or any of the following, namely, that person, any party who is alleged to be the father or mother of that person and any other party to the proceedings;

and the court may at any time revoke or vary a direction previously given by it under this subsection.]

[<sup>F2</sup>(1A) Tests required by a direction under this section may only be carried out by a body which has been accredited for the purposes of this section by—

- (a) the Lord Chancellor, or
- (b) a body appointed by him for the purpose.]

[<sup>F3</sup>(2) The [<sup>F4</sup>individual] carrying out scientific tests in pursuance of a direction under subsection (1) above shall make to the court a report in which he shall state—

- (a) the results of the tests;
- (b) whether any party to whom the report relates is or is not excluded by the results from being the father or mother of the person whose parentage is to be determined; and
- (c) in relation to any party who is not so excluded, the value, if any, of the results in determining whether that party is the father or mother of that person;

and the report shall be received by the court as evidence in the proceedings of the matters stated in it.

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- (2A) Where the proceedings in which the parentage of any person falls to be determined are proceedings on an application under section [F555A or 56] of the M1 Family Law Act 1986, any reference in subsection (1) or (2) of this section to any party to the proceedings shall include a reference to any person named in the application.]
- (3) A report under subsection (2) of this section shall be in the form prescribed by regulations made under section 22 of this Act.
- (4) Where a report has been made to a court under subsection (2) of this section, any party may, with the leave of the court, or shall, if the court so directs, obtain from [F6 the tester] a written statement explaining or amplifying any statement made in the report, and that statement shall be deemed for the purposes of this section (except subsection (3) thereof) to form part of the report made to the court.
- (5) Where a direction is given under this section in any proceedings, a party to the proceedings, unless the court otherwise directs, shall not be entitled to call as a witness [F7 the tester, or any other] person by whom any thing necessary for the purpose of enabling those tests to be carried out was done, unless within fourteen days after receiving a copy of the report he serves notice on the other parties to the proceedings, or on such of them as the court may direct, of his intention to call [F8 the tester or that other person]; [F9 the tester or] any such person is called as a witness the party who called him shall be entitled to cross-examine him.
- (6) Where a direction is given under this section the party on whose application the direction is given shall pay the cost of taking and testing [F10 bodily samples] for the purpose of giving effect to the direction (including any expenses reasonably incurred by any person in taking any steps required of him for the purpose), and of making a report to the court under this section, but the amount paid shall be treated as costs incurred by him in the proceedings.

#### Editorial Information

**X1** Unreliable sidenote

#### Textual Amendments

- F1** S. 20(1) substituted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 23; S.I. 2001/777, art. 2
- F2** S. 20(1A) substituted (1.4.2001) for subsections (1A) and (1B) by 2000 c. 19, s. 82(2)(a) (with s. 83(6)); S.I. 2001/774, art. 2
- F3** S. 20(2)(2A) substituted (1.4.2001) for s. 20(2) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 23; S.I. 2001/777, art. 2
- F4** Word in s. 20(2) substituted (1.4.2001) by 1987 c. 42, s. 23(1); S.I. 2001/777, art. 2 (as substituted (1.4.2001) by 2000 c. 19, s. 83, Sch. 8 para. 9(a) (with s. 83(6)); S.I. 2001/774, art. 2)
- F5** Words in s. 20(2A) substituted (1.4.2001) by 1987 c. 42, s. 23(1); S.I. 2001/777, art. 2 (as substituted (1.4.2001) by 2000 c. 19, s. 83, Sch. 8 para. 9(b) (with s. 83(6)); S.I. 2001/774, art. 2)
- F6** Words in s. 20(4) substituted (1.4.2001) by 2000 c. 19, s. 82(2)(c) (with s. 83(6)); S.I. 2001/774, art. 2
- F7** Words in s. 20(5) substituted (1.4.2001) by 2000 c. 19, s. 82(2)(d)(i) (with s. 83(6)); S.I. 2001/774, art. 2
- F8** Words in s. 20(5) substituted (1.4.2001) by 2000 c. 19, s. 82(2)(d)(ii) (with s. 83(6)); S.I. 2001/774, art. 2
- F9** Words in s. 20(5) inserted (1.4.2001) by 2000 c. 19, s. 82(2)(d)(iii) (with s. 83(6)); S.I. 2001/774, art. 2

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**F10** Words in s. 20(6) substituted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 21**; S.I. 2001/777, **art. 2**

**Modifications etc. (not altering text)**

**C1** S. 20 excluded by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **s. 44(1)**

**Marginal Citations**

**M1** 1986 c.55 (49:7).

**21 Consents, etc., required for taking of [F11]bodily sample].**

- (1) Subject to the provisions of subsections (3) and (4) of this section, a [F11]bodily sample] which is required to be taken from any person for the purpose of giving effect to a direction under section 20 of this Act shall not be taken from that person except with his consent.
- (2) The consent of a minor who has attained the age of sixteen years to the taking from himself of a [F11]bodily sample] shall be as effective as it would be if he were of full age; and where a minor has by virtue of this subsection given an effective consent to the taking of a [F11]bodily sample] it shall not be necessary to obtain any consent for it from any other person.
- (3) A [F11]bodily sample] may be taken from a person under the age of sixteen years, not being such a person as is referred to in subsection (4) of this section,
  - <sup>F12</sup>(a) if the person who has the care and control of him consents; or
  - (b) where that person does not consent, if the court considers that it would be in his best interests for the sample to be taken.]
- <sup>F13</sup>(4) A bodily sample may be taken from a person who lacks capacity (within the meaning of the Mental Capacity Act 2005) to give his consent, if consent is given by the court giving the direction under section 20 or by—
  - (a) a donee of an enduring power of attorney or lasting power of attorney (within the meaning of that Act), or
  - (b) a deputy appointed, or any other person authorised, by the Court of Protection, with power in that respect.]
- (5) The foregoing provisions of this section are without prejudice to the provisions of section 23 of this Act.

**Textual Amendments**

- F11** Words substituted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 22**; S.I. 2001/777, **art. 2**
- F12** S. 21(3)(a)(b) substituted (1.4.2001) for words in s. 21(3) by 2000 c. 19, **s. 82(3)** (with s. 83(6)); S.I. 2001/774, **art. 2**
- F13** S. 21(4) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), s. 68(1), **Sch. 6 para. 15** (with ss. 27-29, 62); S.I. 2007/1897, **art. 2(1)(d)**

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## 22 Power to provide for manner of giving effect to direction for use of <sup>F14</sup>scientific tests].

- (1) The <sup>F15</sup>Lord Chancellor] may by regulations make provision as to the manner of giving effect to directions under section 20 of this Act and, in particular, any such regulations may—
- (a) provide that <sup>F14</sup>bodily samples] shall not be taken except by <sup>F16</sup>registered medical practitioners or members of such professional bodies as may be prescribed by the regulations;]
  - <sup>F17</sup>(aa) prescribe the bodily samples to be taken;]
  - (b) regulate the taking, identification and transport of <sup>F14</sup>bodily samples];
  - (c) require the production at the time when a <sup>F14</sup>bodily sample] is to be taken of such evidence of the identity of the person from whom it is to be taken as may be prescribed by the regulations;
  - (d) require any person from whom a <sup>F14</sup>bodily sample] is to be taken, or, in such cases as may be prescribed by the regulations, such other person as may be so prescribed, to state in writing whether he or the person from whom the sample is to be taken, as the case may be, has during such period as may be specified in the regulations suffered from any such illness <sup>F18</sup>or condition or undergone any such treatment] as may be so specified or received a transfusion of blood;
  - <sup>F19</sup>(e) prescribe conditions which a body must meet in order to be eligible for accreditation for the purposes of section 20 of this Act;]
  - (f) prescribe the <sup>F14</sup>scientific tests] to be carried out and the manner in which they are to be carried out;
  - (g) regulate the charges that may be made for the taking and testing of <sup>F14</sup>bodily samples] and for the making of a report to a court under section 20 of this Act;
  - (h) make provision for securing that so far as practicable the <sup>F14</sup>bodily samples] to be tested for the purpose of giving effect to a direction under section 20 of this Act are tested by the same person;
  - (i) prescribe the form of the report to be made to a court under section 20 of this Act.
  - <sup>F20</sup>(j) make different provision for different cases or for different descriptions of case.]
- (2) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### Textual Amendments

- F14** Words in s. 22(1) substituted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 23(2)**; S.I. 2001/777, **art. 2**
- F15** Words in s. 22(1) substituted (1.4.1992) by S.I. 1992/709, art. 3(2), **Sch. 2** (with art. 5(2))
- F16** Words in s. 22(1)(a) substituted (1.4.2001) by 2000 c. 19, s. 82(4)(a) (with s. 83(6)); S.I. 2001/774, **art. 2**
- F17** S. 22(1)(aa) inserted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 23(3)**; S.I. 2001/777, **art. 2**
- F18** Words in s. 22(1)(d) inserted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 23(4)**; S.I. 2001/777, **art. 2**
- F19** S. 22(1)(e) substituted (1.4.2001) by 2000 c. 19, s. 82(4)(b) (with s. 83(6)); S.I. 2001/774, **art. 2**

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**F20** S. 22(1)(j) inserted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 23(5)**; S.I. 2001/777, **art. 2**

## **23 Failure to comply with direction for taking blood tests.**

- (1) Where a court gives a direction under section 20 of this Act and any person fails to take any step required of him for the purpose of giving effect to the direction, the court may draw such inferences, if any, from that fact as appear proper in the circumstances.
- (2) Where in any proceedings in which the [<sup>F21</sup>paternity] of any person falls to be determined by the court hearing the proceedings there is a presumption of law that that person is legitimate, then if—
  - (a) a direction is given under section 20 of this Act in those proceedings, and
  - (b) any party who is claiming any relief in the proceedings and who for the purpose of obtaining that relief is entitled to rely on the presumption fails to take any step required of him for the purpose of giving effect to the direction, the court may adjourn the hearing for such period as it thinks fit to enable that party to take that step, and if at the end of that period he has failed without reasonable cause to take it the court may, without prejudice to subsection (1) of this section, dismiss his claim for relief notwithstanding the absence of evidence to rebut the presumption.
- (3) Where any person named in a direction under section 20 of this Act fails to consent to the taking of a [<sup>F22</sup>blood sample] from himself or from any person named in the direction of whom he has the care and control, he shall be deemed for the purposes of this section to have failed to take a step required of him for the purpose of giving effect to the direction.

### **Textual Amendments**

**F21** Word in s. 23(2) substituted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 24(a)**; S.I. 2001/777, **art. 2**

**F22** Words in s. 23(3) substituted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 24(b)**; S.I. 2001/777, **art. 2**

## **24 Penalty for personating another, etc., for purpose of providing [<sup>F23</sup>bodily sample].**

If for the purpose of providing a [<sup>F23</sup>bodily sample] for a test required to give effect to a direction under section 20 of this Act any person personates another, or proffers a child knowing that it is not the child named in the direction, he shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or
- (b) on summary conviction, to a fine not exceeding £400.

### **Textual Amendments**

**F23** Words in s. 24 substituted (1.4.2001) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1), **Sch. 2 para. 25**; S.I. 2001/777, **art. 2**

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## 25 Interpretation of Part III.

In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

[<sup>F24</sup> “bodily sample ” means a sample of bodily fluid or bodily tissue taken for the purpose of scientific tests; ]

“excluded ” means excluded subject to the occurrence of mutation [<sup>F25</sup>to section 27 of the <sup>M2</sup>Family Law Reform Act 1987 [<sup>F26</sup> to] sections 27 to 29 of the Human Fertilisation and Embryology Act 1990][<sup>F27</sup> and to sections 33 to 47 of the Human Fertilisation and Embryology Act 2008].

[<sup>F28</sup> “ scientific tests ” means scientific tests carried out under this Part of this Act and made with the object of ascertaining the inheritable characteristics of bodily fluids or bodily tissue. ]

### Textual Amendments

- F24** Definition in s. 25 substituted (1.4.2001) by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\), s. 23\(2\)\(a\)](#); [S.I. 2001/777, art. 2](#)
- F25** Words in s. 25 added (1.8.1991) by [Human Fertilisation and Embryology Act 1990 \(c. 37, SIF 83:1\), s. 49\(5\), Sch. 4 para. 1](#) (with ss. 39(3), 43(2)); [S.I. 1991/1400, art. 2\(2\)](#)
- F26** Word in s. 25 substituted (6.4.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), s. 68\(2\), Sch. 6 para. 13\(a\)](#); [S.I. 2009/479, art. 6\(1\)\(d\)](#) (with art. 7, Sch.)
- F27** Words in s. 25 inserted (6.4.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), s. 68\(2\), Sch. 6 para. 13\(b\)](#); [S.I. 2009/479, art. 6\(1\)\(d\)](#) (with art. 7, Sch.)
- F28** Definition in s. 25 inserted (1.4.2001) by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\), s. 23\(2\)\(b\)](#); [S.I. 2001/777, art. 2](#)

### Marginal Citations

- M2** [1987 c.42\(47:7\)](#).

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