

2009 No. 1736

**REGISTRATION OF BIRTHS, DEATHS, MARRIAGES,
ETC.**

The Service Departments Registers (Amendment) Order 2009

Made - - - - - *8th July 2009*

Coming into force - - - - - *1st September 2009*

At the Court at Buckingham Palace, the 8th day of July 2009

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 1(1), (2) and (4), 2, and 6 of the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Service Departments Registers (Amendment) Order 2009 and shall come into force on 1st September 2009.

(2) In this Order—

“the principal Order” means the Service Departments Registers Order 1959(b);

“required form” means such form as may be provided by the Registrar General of England and Wales who is appointed under section 1 of the Registration Service Act 1953(c).

Amendment of article 3A of the principal Order

2. Article 3A of the principal Order is amended as follows—

(1) For the heading to the article substitute “Registration of father or second woman as parent”.

(2) In paragraph (1)(b)(i) for the words “prescribed form” substitute “required form”.

(3) In paragraph (1)(c)(i) and (1)(g)(ii) for the words “prescribed form” substitute “required form made”.

(4) In paragraph (1) for sub-paragraphs (d) to (f) substitute—

“(d) at the request of the mother or that person—

(a) 1957 c. 58. This Act has been amended by various subsequent Acts, including the Human Fertilisation and Embryology Act 2008 (c. 22).

(b) S.I. 1959/406. This order has been amended by various instruments, including S.I. 2007/908 which inserted articles 3A and 3B.

(c) 1953 c. 37.

- (i) on production of—
 - (aa) a copy of any agreement made between them under section 4(1)(b) of the Children Act 1989^(a) in relation to the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the agreement was made in compliance with section 4 of that Act and has not been brought to an end by an order of a court; or
- (ii) on production of—
 - (aa) a copy of any agreement made between them under section 4(1) of the Children (Scotland) Act 1995^(b) giving that person parental responsibility for the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the agreement was made in compliance with section 4 of that Act and has not been brought to an end by an order of a court; or
- (e) at the request of the mother or that person—
 - (i) on production of—
 - (aa) a certified copy of an order under section 4(1)(c) of the Children Act 1989 giving that person parental responsibility for the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the order has not been brought to an end by an order of a court; or
 - (ii) on production of—
 - (aa) a certified copy of an order under section 11(1) of the Children (Scotland) Act 1995 giving that person parental responsibility for the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the order has not been brought to an end by an order of a court; or
- (f) at the request of the mother or that person—
 - (i) on production of—
 - (aa) a certified copy of an order under paragraph 1 of Schedule 1 to the Children Act 1989 which requires that person to make any financial provision for the child and which is not an order falling within paragraph 4(3) of that Schedule; and
 - (bb) a declaration in the required form made by the person making the request stating that the order has not been discharged by an order of a court; or
 - (ii) on production of—
 - (aa) a certified copy of an order under section 3(1) of the Family Law (Scotland) Act 1985^(c) which requires that person to make any financial provision for the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the order has not been discharged by an order of a court; or”.

(5) After paragraph (3) insert—

(a) 1989 c. 41.
 (b) 1995 c. 36.
 (c) 1985 c. 37.

“(3A) Notwithstanding anything in the foregoing provisions of this Order and subject to article 3B, in the case of a child to whom section 1(3) of the Family Law Reform Act 1987(a) does not apply, no woman who is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008(b) (“P”) shall be required to give information concerning the birth of the child, and a registering officer shall not enter in the register provided under this Order the name of any woman as a parent of the child by virtue of that section except—

- (a) at the joint request of the mother and P (in which case P shall sign the register together with the mother); or
- (b) at the request of the mother on production of—
 - (i) a declaration in the required form made by her stating that P is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and
 - (ii) a statutory declaration made by P stating herself to be a parent of the child by virtue of section 43 of that Act; or
- (c) at the request of P on production of—
 - (i) a declaration in the required form made by her stating that she is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and
 - (ii) a statutory declaration made by the mother stating that P is a parent of the child by virtue of section 43 of that Act; or
- (d) at the request of the mother or P—
 - (i) on production of—
 - (aa) a copy of any agreement made between them under section 4ZA(1)(b) of the Children Act 1989(c) in relation to the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the agreement was made in compliance with section 4 of that Act and has not been brought to an end by an order of a court; or
 - (ii) on production of—
 - (aa) a copy of any agreement made between them under section 4A(1) of the Children (Scotland) Act 1995(d) in relation to the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the agreement was made in compliance with section 4 of that Act and has not been brought to an end by an order of a court; or
- (e) at the request of the mother or P—
 - (i) on production of—
 - (aa) a certified copy of an order under section 4ZA(1)(c) of the Children Act 1989 giving P parental responsibility for the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the order has not been brought to an end by an order of a court; or
 - (ii) on production of—

(a) 1987 c. 42.

(b) 2008 c. 22.

(c) Section 4ZA was inserted by section 56 and paragraph 27 of Schedule 6 to the Human Fertilisation and Embryology Act 2008.

(d) Section 4A(1) was inserted by section 56 and paragraph 51 of Schedule 6 to the Human Fertilisation and Embryology Act 2008.

- (aa) a certified copy of an order under section 11 of the Children (Scotland) Act 1995 giving P parental responsibility for the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the order has not been brought to an end by an order of a court; or
- (f) at the request of the mother or P—
- (i) on production of—
 - (aa) a certified copy of an order under paragraph 1 of Schedule 1 to the Children Act 1989 which requires P to make any financial provision for the child and which is not an order falling within paragraph 4(3) of that Schedule; and
 - (bb) a declaration in the required form made by the person making the request stating that the order has not been discharged by an order of a court; or
 - (ii) on production of—
 - (aa) certified copy of an order under section 3(1) of the Family Law (Scotland) Act 1985 which requires P to make any financial provision for the child; and
 - (bb) a declaration in the required form made by the person making the request stating that the order has not been discharged by an order of a court.
- (g) In this paragraph “mother” has the same meaning as in section 33 of the Human Fertilisation and Embryology Act 2008.

(3B) Where, in the case of a child to whom section 1(3) of the Family Law Reform Act 1987 does not apply, a person stating herself to be a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 makes a request to a registering officer in accordance with any of sub-paragraphs (c) to (f) of paragraph (3A)—

- (a) she shall be treated as a qualified informant concerning the birth of the child for the purposes of this Order; and
- (b) the giving of information concerning the birth of the child by that person and the signing of the register provided under this Order by her in the presence of a registering officer shall act as a discharge of any duty of any other qualified informant under article 3 of this Order.”.

Amendment of article 3B of the principal Order

3. Article 3B of the principal Order is amended as follows—

(1) For the heading to the article substitute “Registration of father or second woman as parent”.

(2) For paragraph (1) substitute—

“(1) Notwithstanding anything in the foregoing provisions of this Order, a registering officer shall not enter in a register provided under this Order—

- (a) as the father of a child the name of a man who is to be treated for that purpose as the father of the child by virtue of section 39(1) or 40(1) or (2) of the Human Fertilisation and Embryology Act 2008 (circumstances in which man to be treated as father of child for purposes of registration of birth where fertility treatment undertaken after his death), or
- (b) as a parent of the child, the name of a woman who is to be treated for that purpose as a parent of the child by virtue of section 46(1) or (2) of that Act (circumstances in which woman to be treated as parent of child for purposes of registration of birth where fertility treatment undertaken after her death),

unless the condition in paragraph (2) of this article is satisfied.”.

(3) In paragraph (3) for “28(5A), (5B), (5C) or (as the case may be) (5D) of the Human Fertilisation and Embryology Act 1990;” substitute “39(1) or 40(1) or (2) or 46(1) or (2) (as the case may be) of the Human Fertilisation and Embryology Act 2008;”.

Judith Simpson
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Service Departments Registers Order 1959 (“the 1959 Order”) (S.I. 1959/406) which is made under the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58). The 1959 Order sets out the relevant provisions for the keeping of records of births and deaths occurring and marriages and civil partnerships entered into outside the United Kingdom among members of Her Majesty’s armed forces, associated civilians and their respective families. Articles 3A and 3B of the 1959 Order were inserted by the Service Departments Registers (Amendment) Order 2007 (S.I. 2007/908) and detail, supplementing the main provisions in article 3 of the 1959 Order, who may give information to a registering officer in relation to a death, birth or marriage to which the 1959 Order applies (“qualified informants”). This Order amends articles 3A and 3B to reflect changes as to who may be a qualified informant and who may be registered as a parent of a child as a result of changes introduced by the Human Fertilisation and Embryology Act 2008 (c. 22).

Article 3A of the 1959 Order required specified documentation to be provided by a qualified informant seeking to register a birth. The amendments to article 3A in this Order now include any documentation required under Scottish law to be provided prior to such a registration, thereby covering people who have entered into relevant agreements or have been named in relevant court orders in Scotland.

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STATUTORY INSTRUMENTS

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