1978 No. 379

EVIDENCE

The Blood Tests (Evidence of Paternity) Regulations (Northern Ireland) 1978

Made . . . . . 13*th December* 1978

Coming into operation . . . 1*st March* 1979

To be laid before Parliament

The Secretary of State, in pursuance of article 10 of the Family Law Reform (Northern Ireland) Order 1977(**a**), hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Blood Tests (Evidence of Paternity) Regulations (Northern Ireland) 1978 and shall come into operation on 1st March 1979.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires,—

"the Order" means the Family Law Reform (Northern Ireland) Order 1977;

"court" means a court which gives a direction for the use of blood tests in pursuance of article 8(1) of the Order;

"direction" means a direction given as aforesaid;

"direction form" means Form 1 in Schedule 1;

"photograph" means a recent photograph, taken full face without a hat, of the size required for insertion in a passport, that is to say not exceeding 6 centimetres by 6 centimetres;

"sample" means blood taken for the purpose of tests;

"sampler" means a registered medical practitioner appointed by the Secretary of State under regulation 3 to take blood samples and nominated in a direction form to take blood samples for the purposes of the direction;

"subject" means a person from whom a court directs that blood samples shall be taken;

"tester" means a person appointed by the Secretary of State to carry out blood tests;

"tests" means blood tests carried out under Part III of the Order and includes any test made with the object of ascertaining the inheritable characteristics of blood.

(2) A reference in these regulations to a person who is under a disability is a reference to a person who has not attained the age of 16 years or who is suffering from a mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961(**b**) and is incapable of understanding the nature and purpose of blood tests.

(a) S.I. 1977 No. 1250 (N.I. 17) (b) 1961 c. 15 (N.I.)

Medical practitioners to be appointed to take samples

3. Samples shall not be taken except by such medical practitioners as may be appointed by the Secretary of State.

Direction form

4. A sampler shall not take a sample from a subject unless Parts I and II of the direction form have been completed and the direction form purports to be signed by the proper officer of the court or some other person on his behalf.

Subjects under disability to be accompanied to sampler

5. A subject who is under a disability who attends a sampler for the taking of a sample shall be accompanied by a person of full age who shall identify him to the sampler.

Taking of samples

6.—(1) Without prejudice to the provisions of Rules of Court, County Court Rules or Magistrates' Courts Rules, a sampler may make arrangements for the taking of samples from the subjects or may change any arrangements already made and make other arrangements.

(2) Subject to the provisions of these regulations, where a subject attends a sampler in accordance with arrangements made under a direction, the sampler shall take a sample from him on that occasion.

(3) A sampler shall not take a sample from a subject if—

(i) he has reason to believe that the subject has been transfused with blood within the three months immediately preceding the day on which the sample is to be taken; or

(ii) in his opinion, tests on a sample taken at that time from that subject could not effectively be carried out for the purposes of and in accordance with the direction; or

(iii) in his opinion, the taking of a sample might have an adverse effect on the health of the subject.

(4) A sampler may take a sample from a subject who has been injected with a blood product or blood plasma if, in his opinion, the value of any tests done on that sample would not be thereby affected, but shall inform the tester that the subject was so injected.

(5) Where a sampler does not take a sample from a subject in accordance with arrangements made for the taking of that sample and no other arrangements are made, he shall return the direction form relating to that subject to the court, having stated on the form his reason for not taking the sample and any reason given by the subject (or the person having the care and control of the subject) for any failure to attend in accordance with those arrangements.

(6) A subject who attends a sampler for the taking of a sample may be accompanied by his legal representative.

Sampling procedure

7.—(1) A sampler shall comply with the provisions of this regulation, all of which shall be complied with in respect of one subject before any are complied with in respect of any other subject; so however that a report made in accordance with the provisions of article 8(2) of the Order or any other evidence relating to the samples or the tests made on the samples shall not be challenged solely on the grounds that a sampler has not acted in accordance with the provisions of this regulation.

(2) Before a sample is taken from any subject who has attained the age of 12 months by the date of the direction, the sampler shall ensure that a photograph of that subject is affixed to the direction form relating to that subject unless the direction form is accompanied by a certificate from a medical practitioner that the subject is suffering from a mental disorder and that a photograph of him cannot or should not be taken.

(3) Before a sample is taken from a subject, he, or where he is under a disability the person of full age accompanying him, shall complete the declaration in Part V or Part VI of the direction form as the case may be, (that that subject is the subject to whom the direction form relates and, where a photograph is affixed to the direction form, that the photograph is a photograph of that subject) which shall be signed in the presence of and witnessed by the sampler.

(4) Where a subject is suffering from a mental disorder, the sampler shall not take a sample from him unless the sampler is in possession of a certificate from a medical practitioner that the taking of a blood sample from the subject will not be prejudicial to his proper care and treatment.

(5) A sample shall not be taken from any subject unless—

(*a*) he or, where he is under a disability, the person having the care and control of him, has signed a statement on the direction form that he consents to the sample being taken; or

(*b*) where he is under a disability and is not accompanied by the person having the care and control of him, the sampler is in possession of a statement in writing, purporting to be signed by that person that he consents to the sample being taken.

(6) The sampler shall affix to the direction form any statement referred to in sub-paragraph (*b*) of the preceding paragraph.

(7) If a subject or, where he is under a disability, the person having the care and control of him, does not consent to the taking of a sample, he may record on the direction form his reasons for withholding his consent.

(8) When the sampler has taken a sample he shall place it in a suitable container and shall affix to the container a label giving the full name, age and sex of the subject from whom it was taken and the label shall be signed by the sampler and by that subject or, if he is under a disability, the person accompanying him.

(9) The sampler shall state in Part VII of the direction form that he has taken the sample and the date on which he did so.

Despatch of samples to tester

8.—(1) When a sampler has taken samples, he shall pack the containers together with the relevant direction forms and shall despatch them forthwith to the tester by post by special delivery service or shall deliver them or cause them to be delivered to the tester by some person other than a subject or a person who has accompanied a subject to the sampler.

(2) If at any time a sampler despatches to a tester samples from some only of the subjects and has not previously despatched samples taken from the other subjects, he shall inform the tester whether he is expecting to take any samples from those other subjects and, if so, from whom and on what date.

Procedure where sampler nominated is unable to take the samples

9.—(1) Where a sampler is unable himself to take samples from all or any of the subjects, he may nominate another medical practitioner appointed by the Secretary of State under regulation 3 to take the samples which he is unable to take.

(2) The sampler shall record the nomination of the other sampler on the relevant direction forms and shall forward them to the sampler nominated by him.

Testing of samples

10.—(1) Samples taken for the purpose of giving effect to a direction shall (so far as practicable) all be tested by the same tester.

(2) A tester shall not make tests on any samples for the purpose of a direction unless he will, in his opinion, be able to show from the results of those tests (whether alone or together with the results of tests on any samples which he has received and tested or expects to receive subsequently) that a subject is or is not excluded from being the father of a subject whose paternity is in dispute.

Report by tester

11. On completion of the tests in compliance with the direction, the tester shall forward to the court a report in Form 2 in Schedule 1 together with the appropriate direction forms.

Procedure where tests not made

12. If at any time it appears to a tester that he will be unable to make tests in accordance with the direction, he shall inform the court, giving his reasons, and shall return the direction forms in his possession to the court.

Fees

13. The fees payable to samplers and testers shall be those specified in Schedule 2.

Roy Mason
One of Her Majesty's Principal Secretaries of State

Northern Ireland Office
13th December 1978

SCHEDULE 1 Regulations 2(1) and 11

FORM 1

Direction Form

FAMILY LAW REFORM (NORTHERN IRELAND) ORDER 1977

..... Insert title of proceedings

v.

.....

Reference No. of direction .....

Full name and date of birth of person to be tested to whom this form relates

.....

.....

PART I

Notification of direction

The ..... (*name and address of court*) on .....day of ..... 19 . directed that blood tests be carried out in respect of the persons whose names are set out below for the purpose of ascertaining the paternity of ..... (*name of person whose paternity is in dispute*) and that blood samples be taken from the persons named on or before the ..... day of ..... 19 .

The name of the person appearing to the court to have the care and control of the person to whom this form relates who is under 16/ suffering from a mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961 and is incapable of understanding the nature and purpose of blood tests, is ..... *Delete as appropriate.

.....

..... (Signed)
Proper Officer of the Court.

Name	Address	Age
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