STATUTORY INSTRUMENTS

1977 No. 1250 (N.I. 17)

Family Law Reform (Northern Ireland) Order 1977

\- - - - - - *[26th July 1977]*

Annotations:

Modifications etc. (not altering text)

C1 Order: functions transferred from Lord Chancellor to Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(1), **Sch. 17 para. 28** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Family Law Reform (Northern Ireland) Order 1977.

(2) *Commencement*

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

PART II

PROPERTY RIGHTS OF ILLEGITIMATE CHILDREN

Arts. 3, 4 rep. with saving by 1995 NI 2

Art. 5 rep. by 1994 NI 13

Art. 6 rep. with saving by 1995 NI 2

Art. 7 rep. by 1979 NI 8

PART III

PROVISIONS FOR USE OF BLOOD TESTS IN DETERMINING PATERNITY

Power of court to require use of blood tests

8.—**[**F1(1) In any civil proceedings in which the parentage of any person falls to be determined, the court may, 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.**]**

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

(a) the Lord Chancellor; or

(b) a body appointed by him for the purpose.**]**

[F1(2) The individual carrying out scientific tests in pursuance of a direction under paragraph (1) ("the tester") 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.

(2A) Where the proceedings in which the parentage of any person falls to be determined are proceedings on an application under Article 31B of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989, any reference in paragraph (1) or (2) to any party to the proceedings shall include a reference to any person named in the application.**]**

(3) A report under paragraph (2) shall be in the form prescribed by regulations made under Article 10.

(4) Where a report has been made to a court under paragraph (2), any party may, with the leave of the court, or shall, if the court so directs, obtain from**[**F2 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 Article (except paragraph (3)) to form part of the report made to the court.

(5) Where a direction is given under this Article in any proceedings, a party to the proceedings, unless the court otherwise directs, shall not be entitled to call as a witness**[**F2 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**[**F2 the tester or that other person**]**; and where**[**F2 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 Article the party on whose application the direction is given shall pay the cost of taking and testing**[**F1 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 Article, but the amount paid shall be treated as costs incurred by him in the proceedings.

(7) A court may at any time revoke or vary a direction previously given by it under this Article.

Annotations:
F1 2001 c. 12 (NI)
F2 2000 c. 4 (NI)

Consents, etc., required for taking of blood samples

9.—(1) Subject to the provisions of paragraphs (3) and (4) a**[**F3** bodily sample**]** which is required to be taken from any person for the purpose of giving effect to a direction under Article 8 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**[**F3** 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 paragraph given an effective consent to the taking of a**[**F3** bodily sample**]** it shall not be necessary to obtain any consent for it from any other person.

(3) A**[**F3** bodily sample**]** may be taken from a person under the age of sixteen years, not being such a person as is referred to in paragraph (4)

[F4**(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.**]**

(4) A**[**F3** bodily sample**]** may be taken from a person who is suffering from mental disorder within the meaning of the Mental Health**[**F5** (Northern Ireland) Order 1986**]** and is incapable of understanding the nature and purpose of**[**F3** scientific tests**]** if the person who has the care and control of him consents and the medical practitioner in whose care he is has certified that the taking of a**[**F3** bodily sample**]** from him will not be prejudicial to his proper care and treatment.

(5) The foregoing provisions of this Article are without prejudice to the provisions of Article 11.

Annotations:
F3 2001 c. 12 (NI)
F4 2000 c. 4 (NI)
F5 1986 NI 4

Power to provide for manner of giving effect to direction for use of blood tests

10.—(1 **F6** The Secretary of State may by regulations make provision as to the manner of giving effect to directions under Article 8 and, in particular, in such regulations may—

(a) provide that**[**F7** bodily samples**]** shall not be taken except by**[**F8** registered medical practitioners or members of such professional bodies as may be prescribed by the regulations;**]**

[F7**(aa)** prescribe the bodily samples to be taken;**]**

(b) regulate the taking, identification and transport of**[**F7** bodily samples**]**;

(c) require the production at the time when a**[**F7** 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**[**F7** 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