

## SCHEDULES

### SCHEDULE 6

#### AMENDMENTS RELATING TO PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

#### PART 3

#### ENACTMENTS RELATING ONLY TO NORTHERN IRELAND

##### *Legitimacy Act (Northern Ireland) 1928 (c. 5 (N.I.))*

57 (1) Section 1 of the Legitimacy Act (Northern Ireland) 1928 (legitimation by subsequent marriage of parents) is amended as follows.

(2) In the heading, after “marriage” insert “or civil partnership”.

(3) After subsection (1) insert—

“(1A) Subject to subsection (3), where—

- (a) a person (“the child”) has a parent (“the female parent”) by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent);
- (b) at the time of the child’s birth, the female parent and the child’s mother are not civil partners of each other;
- (c) the female parent and the child’s mother subsequently enter into a civil partnership; and
- (d) the female parent is at the date of the formation of the civil partnership domiciled in Northern Ireland,

the civil partnership shall render the child, if living, legitimate from the date of the formation of the civil partnership.”

58 (1) Section 8 of the Legitimacy Act (Northern Ireland) 1928 (provisions as to persons legitimated by extraneous law) is amended as follows.

(2) After subsection (1) insert—

“(1A) Where—

- (a) a person (“the child”) has a parent (“the female parent”) by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent);
- (b) at the time of the child’s birth, the female parent and the child’s mother are not civil partners of each other;
- (c) the female parent and the child’s mother subsequently enter into a civil partnership; and

---

*Status: This is the original version (as it was originally enacted).*

---

- (d) the female parent is at the time of the formation of the civil partnership domiciled in a country, other than Northern Ireland, by the law of which the child became legitimated by virtue of the civil partnership;

the child, if living, shall in Northern Ireland be recognised as having been so legitimated from the date of the formation of the civil partnership notwithstanding that, at the time of the child's birth, the female parent was not domiciled in a country the law of which permitted legitimation by subsequent civil partnership."

- 59 In section 11 of the Legitimacy Act (Northern Ireland) 1928 (interpretation), in the definition of "date of legitimation", after "date of the marriage" insert "or of the formation of the civil partnership".

*Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041 (N.I. 14))*

- 60 (1) Article 10 of the Births and Deaths Registration (Northern Ireland) Order 1976 (registration of births) is amended as follows.

(2) In paragraph (4) for "Article 14" substitute "Articles 14 and 14ZA".

(3) After paragraph (4) insert—

"(4A) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the references in paragraphs (3)(a) and (4) to the father of the child are to be read as references to the woman who is a parent by virtue of that section."

- 61 After Article 14 of the Births and Deaths Registration (Northern Ireland) Order 1976 insert—

**Registration of second female parent where parents not civil partners**

"14ZA(1) This Article applies, subject to Article 14A, in the case of a child who—

- (a) has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; but
- (b) is a person to whom Article 155(3) of the Children (Northern Ireland) Order 1995 (persons to be covered by references to a person whose mother and father were married to each other at the time of the person's birth) does not apply.

(2) The woman who is a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 shall not as such be under any duty to give any information under this Part concerning the birth of the child.

(3) A registrar shall not enter the name of any person as a parent of the child by virtue of that section unless—

- (a) the mother and the person stating herself to be the other parent of the child jointly request the registrar to do so and in that event the mother and that person shall sign the register in the presence of each other; or

(b) the mother requests the registrar to do so and produces—

- (i) a declaration in the prescribed form made by her stating that the person to be registered ("the woman concerned") is a

---

*Status: This is the original version (as it was originally enacted).*

---

- 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 woman concerned stating herself to be a parent of the child by virtue of section 43 of that Act; or
- (c) the woman concerned requests the registrar to do so and produces—
    - (i) a declaration in the prescribed form made by the woman concerned stating herself to be 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 the woman concerned is a parent of the child by virtue of section 43 of that Act; or
  - (d) the mother or the woman concerned requests the registrar to do so and produces—
    - (i) a copy of a parental responsibility agreement made between them in relation to the child; and
    - (ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with Article 7 of the Children (Northern Ireland) Order 1995 and has not been brought to an end by an order of a court; or
  - (e) the mother or the woman concerned requests the registrar to do so and produces—
    - (i) a certified copy of an order under Article 7 of the Children (Northern Ireland) Order 1995 giving the woman concerned parental responsibility for the child; and
    - (ii) a declaration in the prescribed form 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) the mother or the woman concerned requests the registrar to do so and produces—
    - (i) a certified copy of an order under paragraph 2 of Schedule 1 to the Children (Northern Ireland) Order 1995 which requires the woman concerned to make any financial provision for the child and which is not an order falling within paragraph 5(3) of that Schedule; and
    - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court.
- (4) Where, in the case of a child to whom Article 155(3) of the Children (Northern Ireland) Order 1995 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 the registrar in accordance with any of sub-paragraphs (c) to (f) of paragraph (3)—
- (a) she shall be treated as a qualified informant concerning the birth of the child for the purposes of this Part; and
  - (b) on the giving of the required information concerning the birth of the child by that person and the signing of the register by her in the

presence of the registrar every other qualified informant shall cease to be under the duty imposed by Article 10(4).”

- 62 For Article 14A of the Births and Deaths Registration (Northern Ireland) Order 1976 substitute—

**Registration of father or second female parent by virtue of certain provisions of Human Fertilisation and Embryology Act 2008**

“14A(1) A registrar shall not enter in the register—

- (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) below is satisfied.

(2) The condition in this paragraph is satisfied if—

- (a) the mother requests the registrar to make such an entry in the register and produces the relevant documents; or
- (b) in the case of the death or inability of the mother, the relevant documents are produced by some other person who is a qualified informant.

(3) In this Article “the relevant documents” means—

- (a) the consent in writing and election mentioned in section 39(1), 40(1) or (2) or 46(1) or (2) (as the case requires) of the Human Fertilisation and Embryology Act 2008;
- (b) a certificate of a registered medical practitioner as to the medical facts concerned; and
- (c) such other documentary evidence (if any) as the registrar considers appropriate.”

- 63 (1) Article 18 of the Births and Deaths Registration (Northern Ireland) Order 1976 (re-registration of births) is amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (b), after “child” insert “who has a father and”,
- (b) after sub-paragraph (b) insert—

“(ba) in the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and to whom Article 155(3) of the Children (Northern Ireland) Order 1995 does not apply—

- (i) the birth was registered as if Article 155(3) of that Order did apply to the child; or

*Status: This is the original version (as it was originally enacted).*

- (ii) no particulars relating to a parent of the child by virtue of section 42, 43 or 46(1) or (2) of that Act have been entered in the register; or”, and
    - (c) for sub-paragraph (c) substitute—
      - “(c) in the case of a person who is to be treated—
        - (i) 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; or
        - (ii) as a parent of the child by virtue of section 46(1) or (2) of that Act;
      - the condition in Article 14A(2) is satisfied.”
  - (3) At the end of paragraph (1A) insert “and re-registration under sub-paragraph (ba)(ii) shall not be authorised otherwise than in accordance with Article 14ZA(3)”.
- 64 (1) Article 19 of the Births and Deaths Registration (Northern Ireland) Order 1976 (re-registration of births of legitimated persons) is amended as follows.
- (2) In paragraph (3)—
    - (a) after sub-paragraph (a) insert—
      - “(aa) the name of a person acknowledging herself to be a parent of the legitimated person by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 has been entered in the register in pursuance of Article 14ZA or 18 of this Order; or”, and
    - (b) after sub-paragraph (b) insert—
      - “(ba) the parentage by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 of the legitimated person has been established by a decree of a court of competent jurisdiction; or”.
  - (3) In paragraph (4), after “marriage” insert “or the formation of the civil partnership”.
  - (4) In paragraph (5)—
    - (a) after “marriage” insert “or civil partnership”, and
    - (b) after “date of the marriage” insert “or the formation of the civil partnership”.
- 65 In Article 20 of the Births and Deaths Registration (Northern Ireland) Order 1976 (registration of births of legitimated person), in paragraph (2), for “sub-paragraph (a)” substitute “sub-paragraphs (a) and (aa)”.
- 66 In Article 37 of the Births and Deaths Registration (Northern Ireland) Order 1976 (registration or alteration of child’s name), in paragraph (7)—
  - (a) after sub-paragraph (a) insert—
    - “(aa) in the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the mother and other parent of the child if Article 155(3) of the Children (Northern Ireland) Order 1995 applies to the child or if it does not apply but the other parent has parental responsibility for the child;”, and
  - (b) for sub-paragraph (b) substitute—
    - “(b) the mother of the child if—

---

*Status: This is the original version (as it was originally enacted).*

---

- (i) in the case of a child who has a father, the child’s parents were not married to each other at the time of the birth and the father does not have parental responsibility for the child; and
- (ii) in the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, Article 155(3) of the Children (Northern Ireland) Order 1995 does not apply to the child and the parent by virtue of that section of that Act does not have parental responsibility for the child;”.

*Family Law Reform (Northern Ireland) Order 1977 (S.I. 1977/1250 (N.I. 17))*

- 67 In Article 13 of the Family Law Reform (Northern Ireland) Order 1977 (interpretation of Part 3), in the definition of “excluded”, after “1990” insert “and to sections 33 to 47 of the Human Fertilisation and Embryology Act 2008”.

*Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))*

- 68 (1) Article 15 of the Adoption (Northern Ireland) Order 1987 (adoption by one person) is amended as follows.
- (2) In paragraph (3)(a), for the words from “or, by virtue of” to “other parent” substitute “or, by virtue of the provisions specified in paragraph (3A), there is no other parent”.
- (3) After paragraph (3) insert—
- “(3A) The provisions referred to in paragraph (3)(a) are—
- (a) section 28 of the Human Fertilisation and Embryology Act 1990 (disregarding subsections (5A) to (5I) of that section), or
  - (b) sections 34 to 47 of the Human Fertilisation and Embryology Act 2008 (disregarding sections 39, 40 and 46 of that Act).”

*Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23))*

- 69 In Article 27 of the Child Support (Northern Ireland) Order 1991 (disputes about parentage), in paragraph (2), for Cases B and B1 substitute—

*“CASE B*

Where the alleged parent is a parent of the child in question by virtue of an order under section 30 of the Human Fertilisation and Embryology Act 1990 or section 54 of the Human Fertilisation and Embryology Act 2008 (parental orders).

*CASE B1*

Where the Department is satisfied that the alleged parent is a parent of the child in question by virtue of section 27 or 28 of the Human Fertilisation and Embryology Act 1990 or any of sections 33 to 46 of the Human Fertilisation and Embryology Act 2008 (which relate to children resulting from assisted reproduction).”

---

*Status: This is the original version (as it was originally enacted).*

---

*Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))*

- 70 In Article 2 of the Children (Northern Ireland) Order 1995, in paragraph (2), in the definition of “parental responsibility agreement”, for “Article 7(1)(b)” substitute “Article 7(1ZB)”.
- 71 (1) Article 5 of the Children (Northern Ireland) Order 1995 (parental responsibility for children) is amended as follows.
- (2) After paragraph (1) insert—
- “(1A) Where a child—
- (a) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008; or
- (b) has a parent by virtue of section 43 of that Act and is a person to whom Article 155(3) applies,
- the child’s mother and the other parent shall each have parental responsibility for the child.”
- (3) After paragraph (2) insert—
- “(2A) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom Article 155(3) applies—
- (a) the mother shall have parental responsibility for the child;
- (b) the other parent shall have parental responsibility for the child if she has acquired it (and has not ceased to have it) in accordance with the provisions of this Order.”
- 72 (1) Article 7 of the Children (Northern Ireland) Order 1995 (acquisition of parental responsibility) is amended as follows.
- (2) In paragraph (1)(b), omit “(a “parental responsibility agreement”)”.
- (3) After paragraph (1) insert—
- “(1ZA) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom Article 155(3) applies, that parent shall acquire parental responsibility for the child if—
- (a) she becomes registered as a parent of the child;
- (b) she and the child’s mother make an agreement providing for her to have parental responsibility for the child; or
- (c) the court, on her application, orders that she shall have parental responsibility for the child.
- (1ZB) An agreement under paragraph (1)(b) or (1ZA)(b) is known as a “parental responsibility agreement”.”
- (4) After paragraph (2) insert—
- “(2A) In paragraph (1)(a) “registered” means registered under—
- (a) Article 14(3)(a), (b) or (c) of the Births and Deaths Registration (Northern Ireland) Order 1976;
- (b) paragraph (a), (b) or (c) of section 10(1) or 10A(1) of the Births and Deaths Registration Act 1953; or

---

*Status: This is the original version (as it was originally enacted).*

---

- (c) paragraph (a), (b)(i) or (c) of section 18(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.
- (2B) In paragraph (1ZA)(a) “registered” means registered under—
  - (a) Article 14ZA(3)(a), (b) or (c) of the Births and Deaths Registration (Northern Ireland) Order 1976;
  - (b) paragraph (a), (b) or (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953; or
  - (c) paragraph (a), (b) or (d) of section 18B(1) of, or sections 18B(3)(a) and 20(1)(a) of, the Registration of Births, Deaths and Marriages (Scotland) Act 1965.”
- (5) In paragraph (3), omit the words from “and “registered”” to the end.
- (6) In paragraph (3A), after “paragraph (1)” insert “, (1ZA)”.
- (7) In paragraph (4)—
  - (a) for “the father” substitute “a parent”, and
  - (b) after “paragraph (1)(c)” insert “or (1ZA)(c)”.
- 73 In Article 8 of the Children (Northern Ireland) Order 1995 (residence, contact and other orders with respect to children), in paragraph (4), for sub-paragraph (g) substitute—
  - “(g) section 54 of the Human Fertilisation and Embryology Act 2008;”.
- 74 (1) Article 12 of the Children (Northern Ireland) Order 1995 (residence orders and parental responsibility) is amended as follows.
  - (2) After paragraph (1) insert—
    - “(1A) Where the court makes a residence order in favour of a person who is a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 it shall, if that person would not otherwise have parental responsibility for the child, also make an order under Article 7(1ZA) giving her that responsibility.”
  - (3) In paragraph (4)—
    - (a) after “(1)” insert “or (1A)”, and
    - (b) for “father” substitute “parent”.
- 75 (1) Article 155 of the Children (Northern Ireland) Order 1995 (parents not being married to each other to have no effect in law on relationships) is amended as follows.
  - (2) In paragraph (3), after sub-paragraph (b) insert—
    - “(ba) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008 (which relates to treatment provided to a woman who is at the time of treatment a party to a civil partnership or, in certain circumstances, a void civil partnership);
    - (bb) has a parent by virtue of section 43 of that Act (which relates to treatment provided to woman who agrees that second woman to be parent) who—
      - (i) is the civil partner of the child’s mother at the time of the child’s birth, or



*Status: This is the original version (as it was originally enacted).*

(ii) was the civil partner of the child’s mother at any time during the period beginning with the time mentioned in section 43(b) of that Act and ending with the child’s birth;”.

(3) After paragraph (4) insert—

“(4A) A child whose parents are parties to a void civil partnership shall, subject to paragraph (4B), be treated as falling within paragraph (3)(bb) if at the time when the parties registered as civil partners of each other both or either of the parties reasonably believed that the civil partnership was valid.

(4B) Paragraph (4A) applies only where the woman who is a parent by virtue of section 43 was domiciled in Northern Ireland at the time of the birth or, if she died before the birth, was so domiciled immediately before her death.

(4C) Paragraph (4A) applies even though the belief that the civil partnership was valid was due to a mistake as to law.

(4D) It shall be presumed for the purposes of paragraph (4A), unless the contrary is shown, that one of the parties to a void civil partnership reasonably believed at the time of the formation of the civil partnership that the civil partnership was valid.”

76 In Article 179 of the Children (Northern Ireland) Order 1995 (effect and duration of orders etc), in paragraph (7), after “7(1)” insert “, (1ZA)”.

77 (1) Schedule 1 to the Children (Northern Ireland) Order 1995 (financial provision for children) is amended as follows.

(2) At the end of paragraph 5 insert—

“(5) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, any reference in sub-paragraph (2), (3) or (4) to the child’s father is a reference to the woman who is a parent of the child by virtue of that section.”

(3) At the end of paragraph 12 insert—

“(8) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in sub-paragraph (1)(a) to the child’s father is a reference to the woman who is a parent of the child by virtue of that section.”

78 (1) Paragraph 1 of Schedule 6 to the Children (Northern Ireland) Order 1995 (succession on intestacy where parents not married to each other) is amended as follows.

(2) At the end of sub-paragraph (2) insert—

“(2A) In the case of a person who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent), the second and third references in paragraph (2) to the person’s father are to be read as references to the woman who is a parent of the person by virtue of that section.”

(3) In sub-paragraph (3) for “section 19(1) of that Act” substitute “section 19(1) of the Administration of Estates Act (Northern Ireland) 1955”.

---

*Status: This is the original version (as it was originally enacted).*

---

*Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6))*

- 79 In Article 2 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (interpretation), in paragraph (3), for sub-paragraph (f) substitute—  
“(f) section 54 of the Human Fertilisation and Embryology Act 2008;”.