

EXPLANATORY MEMORANDUM TO
THE BLOOD TESTS (EVIDENCE OF PATERNITY) (AMENDMENT)
REGULATIONS 2008

2008 No. 972

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty

2. Description

2.1. These Regulations amend the Blood Tests (Evidence of Paternity) Regulations 1971 to update the language to that used in the Mental Capacity Act 2005 (c.9). Further minor amendments have been made to –

- remove the exception that a photograph was not required for a subject under the age of 12 months;
- update the references to postal delivery to refer to recorded signed for and to include international signed for;
- require samples to be sent in tamper proof containers;
- amend the accreditation requirements to provide that a body shall not be eligible for accreditation unless it is accredited as appropriate by a Full Member of the International Laboratory Accreditation Cooperation (ILAC) or a signatory to an ILAC Regional Cooperation Body;
- increase the fee that an organisation may charge to process the sample from that set in 2004 to the current British Medical Association Treasury Rate; and
- the forms have been amended as appropriate

2.2. These changes do not amend the main legislation. Section 20 of the Family Law Reform Act 1969 provides that where the parentage of a person has to be determined in any civil court proceedings (including family proceedings such as an application for a declaration of parentage) the court may direct that scientific tests may be used. This test is to determine whether or not a party to the proceedings is or is not the father or mother of the person concerned. Under subsection (1A), only a body which has been accredited for the purposes of section 20 by the Lord Chancellor may carry out tests for the court.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1. These Regulations arise due to the need to amend the out of date Blood Tests (Evidence of Paternity) Regulations 1971.

4.2. The Regulations are made by the Lord Chancellor in exercise of the powers conferred by section 22 (1) of the Family Law Reform Act 1969, and now vested in him.

5. Extent

5.1. The Regulations apply to England and Wales

6. European Convention on Human Rights

6.1. As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1. These Regulations amend out of date terminology in line with that used in the Mental Capacity Act 2005 (c.9) and the wording when referring to recorded delivery.

7.2. Replaces reference to superseded accreditation standard ISO Guide 58 to now refer to Full ILAC Members and Regional Cooperation Bodies.

7.3. Amend the sampler's fee.

8. Impact

8.1. No Regulatory Impact Assessment has been prepared because there is no adverse regulatory impact on any part of the private or voluntary sector. The amendments bring the procedure in line with best practice and increase the rate an organisation may charge for its services to that of the current BMA Treasury Rate.

9. Contact

9.1. Any enquiries about the contents of this memorandum should be addressed to: Jean Sinclair, Family Relationships 2 Branch, Family Justice, Ministry of Justice
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