

## 1978 No. 379

## EVIDENCE

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

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

*Coming into operation* . . . . . 1st 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.

Northern Ireland Office  
13th December 1978

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

SCHEDULE 1

Regulations 2(1) and 11

FORM 1

Direction Form

FAMILY LAW REFORM (NORTHERN IRELAND) ORDER 1977

.....  
v.  
.....

Insert title of proceedings

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
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

PART II

Request to sampler to take sample

To ..... (name and address of sampler).  
 You are hereby requested to take a blood sample from .....  
 ..... (name of person to whom form relates).  
 You are further requested to send the sample taken to .....  
 ..... (name and address of tester).

[Other samples will be taken as follows:—

To be completed where all the samples from the parties named in Part I not to be taken by the same sampler.	Name of person from whom sample will be taken	Name, address and telephone number of sampler
.....	.....	.....
.....	.....	.....
.....	.....	..... ]

.....(Signed)

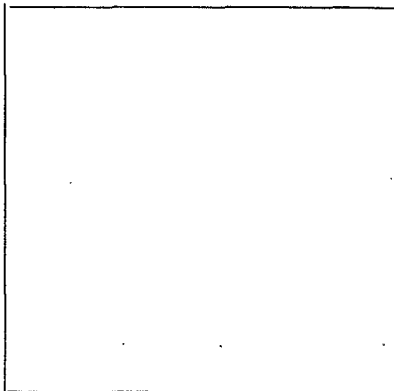
For use where sampler named above nominates another sampler. [Being unable to comply with the request set out above, I have nominated ..... (name and address of nominee) to take the sample.

..... (Signed)]

PART III

Photograph

Below is a photograph of the person to whom this form relates, being a person who has attained the age of twelve months.



PART IV

(To be completed by sampler)

I have questioned\* ..... and it appears that he/she/the party to whom this form relates—

\*Insert name of person to whom form relates or, in the case of person under 16 suffering from mental disability, person accompanying that person.

has/has not† been transfused with blood in the last three months;† has not been injected with a blood product or plasma substitute;† has been injected with a blood product/blood plasma† on or about ..... and that the value of any tests will thereby be/not be affected.†

..... (Signed) (Sampler)

†Delete as appropriate.

PART V

DECLARATION

(To be completed where the person to whom the form relates has attained the age of sixteen years and is not suffering from a mental disability.)

I ..... (insert full name and address of person to whom the form relates) declare that the photograph affixed to Part III of this form is a photograph of me and that I am a person in respect of whom the above-named court gave a direction that blood tests be made. I hereby consent/do not consent\* to the taking of a blood sample from me for the purpose of such tests.

†Delete as appropriate.

[I do not consent because ..... ]†

†To be deleted unless the person making the declaration withholds consent and wishes to record the reason for so doing.

I understand that it is a serious offence punishable by imprisonment to personate another person for the purpose of providing a blood sample.

Date ..... Signed .....

The above was explained to the declarant who stated that he/she understood it and signed it in my presence.

Date ..... (Signed) (Sampler)

PART VI

DECLARATION

(To be completed where the person to whom the form relates has not attained the age of sixteen years or is suffering from a mental disability.)

\*Delete if not applicable.

I ..... (full name and address of person accompanying the subject) [\*being the person having the care and control of ..... (name of person to whom form relates)] declare that the person whom I identify to ..... (insert name of sampler) [†and whose photograph is affixed to Part III of this form] is, to the best of my knowledge and belief .....] who is the son/daughter of ..... (insert the name of mother of person identified.)]

†Delete as appropriate.

I, being the person having the care and control of the person to whom this form relates, consent/do not consent† to the taking of a sample. [I do not consent because:—†

†To be completed if the person making the declaration withholds consent and wishes to record the reason for so doing.

I understand that it is a serious offence punishable by imprisonment to personate another person for the purpose of providing a blood sample or to proffer the wrong child for that purpose.

Date ..... (Signed)

The above was explained to the declarant who stated that he/she understood it and signed it in my presence.

Date ..... (Signed) (Sampler)

PART VII

Delete as inappropriate

(To be completed by sampler)

I have today taken a blood sample from ..... to whom this form relates, whose (apparent) age is ..... years. (I identified him/her from the photograph affixed to this form.) (He/She was (also) identified to me by .....

Date ..... (Signed) (Sampler)

OBSERVATIONS

(Any observations by the sampler which may assist the tester shall be inserted here.)



PART VIII

(To be completed by sampler)

The person to whom this form relates did not attend on the date originally arranged (or on a new date arranged by me). Delete if appropriate.

His/Her reasons given to me for failing to attend were as follows:—

Date ..... (Signed)  
..... (Sampler)

PART IX

(To be completed by tester)

I have today received at ..... (insert place of receipt) the sample referred to in Part VII of this form.

(It was received by special delivery service.)

Delete as appropriate.

(It was handed to be by .....)

Date ..... (Signed)  
..... (Tester)

Report by Tester

FAMILY LAW REFORM (NORTHERN IRELAND) ORDER 1977

Ref. No. of Proceedings .....

To:— High Court of Justice, Royal Courts of Justice

Clerk of the Crown and Peace ..... County Court

Clerk of Petty Sessions ..... Magistrates' Court (1)

v. (2)

PART I

I, being a blood tester appointed by the Secretary of State for the purpose of Part III of the Family Law Reform (Northern Ireland) Order 1977 certify that I have carried out a blood group investigation (the details of which are given in Part II of this Report) of the persons named in this direction, viz.,

From the results obtained Mr. .... is excluded/is not excluded from possible paternity of .....

Reason for conclusion:—

Comments on value, if any, of tests in determining whether any person tested is the father of the person whose paternity is in dispute:—

..... Signed

..... Status

..... Address

PART II

Blood Grouping Report

- (1) Complete as appropriate
(2) Insert title of proceedings

## SCHEDULE 2

Regulation 13

## FEES

## Samplers

The fees which may be charged by a sampler in respect of one direction requesting him to take samples shall be as follows:—

For making all necessary arrangements (whether or not samples are taken) .. .. .	£4.20
For making further arrangements (whether or not samples are taken) to give effect to a variation by the court of a direction .. .. .	£4.20
For taking sample—	
from first subject .. .. .	£4.20
from each subject after the first .. .. .	£2.10
For taking second or subsequent samples from one or more subjects—	
if one such sample .. .. .	£4.20
if two such samples .. .. .	£6.30
if three or more such samples .. .. .	£10.50

## Testers

The fees which may be charged by a tester in respect of tests for the purpose of giving effect to one direction shall be as follows:—

For making a report in accordance with the direction and testing four or less samples .. .. .	£52.55
For testing each sample after the fourth covered by a report .. .. .	£10.50
For testing samples where no report is made—	
in respect of the first sample .. .. .	£21.00
in respect of each subsequent sample .. .. .	£10.50

## EXPLANATORY NOTE

*(This Note is not part of the regulations but is intended to indicate their general purport.)*

Part III of the Family Law Reform (Northern Ireland) Order 1977 (which comes into force on 1st March 1979) makes provision for the use of blood tests in determining paternity in civil proceedings. Under article 8 of that Order the court may give a direction for the use of blood tests. These regulations make provision as to the manner of giving effect to directions under article 8 and prescribe, in particular, the procedure for taking blood samples, testing samples and providing a report for the court.