

These notes refer to the Child Support, Pensions and Social Security Act 2000 (c.19) which received Royal Assent on 28th July 2000

CHILD SUPPORT, PENSIONS AND SOCIAL SECURITY ACT 2000

EXPLANATORY NOTES

Part 1: Child Support

Commentary on Sections

Parentage

Section 82: Tests for determining parentage

165. Part III of the Family Law Reform Act 1969 enables the court to direct the use of blood tests in order to resolve a dispute about paternity which has arisen in the course of civil proceedings.
166. Regulations under the Act provide that samples may only be taken by a registered medical practitioner, or someone who has been appointed as a tester under the Act. They also prescribe the procedure for the taking of samples, set conditions for the secure despatch of samples to a tester, and prescribe the fees payable to samplers.
167. Blood testing under the Act is carried out by authorised testers who are appointed by the Lord Chancellor. There is no regulation of the laboratory conditions and standards under which testers work, or the frequency with which they undertake the work. Once a person is appointed as a tester, there is no mechanism to review his or her suitability.
168. This section replaces the present system of approving individual paternity testers by one based on the accreditation of laboratories. This will allow the Lord Chancellor to regulate laboratory conditions and set minimum qualifications for the individual testers.
169. This section also amends the legislation to address the issue raised by a High Court judgment (*re O and re J(Minors)(Blood Tests: Constraint)* [2000] 2 W.L.R. 1284). Section 21(3) of the 1969 Act provides that a blood sample may be taken from a person under the age of 16 if the person who has care and control of the child consents. In the judgement, it was held that the effect of this provision is that the court has no power to enforce a direction for the taking from a child under 16 of a blood sample to establish paternity, if the person with care of the child refuses to consent to the sample being taken.
170. *Subsection (2)* amends section 20 of the 1969 Act to provide for tests to be carried out by a body which has been accredited either by the Lord Chancellor or by a body appointed by him for that purpose.
171. *Subsection (3)* amends section 21(3) of the 1969 Act to provide that, where the person with care and control of a child under 16 does not consent to the taking of a blood sample, the sample may be taken if the court considers that it would be in the best interests of the child to do so.

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172. *Subsection (4)* amends section 22 of the 1969 Act, which sets out procedural matters on which the Lord Chancellor may make regulations, in two respects. First, an amendment replaces the current requirement that samples be taken by appointed individual medical practitioners with a provision enabling samples to be taken by registered medical practitioners or members of such professional bodies as may be prescribed by the regulations. Secondly, an amendment enables the Lord Chancellor to prescribe conditions which a body must meet to be eligible for accreditation.
173. *Subsection (5)* provides that neither this section nor anything else in the Act will affect proceedings to determine declarations of parentage which are pending when these provisions take effect.
174. The Government also intends to bring section 23 of the Family Law Reform Act 1987 into force by commencement order in conjunction with these new provisions. Section 23 amended the 1969 Act to allow for other bodily samples as well as blood to be taken from the categories of people specified in the 1969 Act (the child, the mother and the putative father) and from any other party to the proceedings, to resolve a dispute about parentage.