

2001 No. 773

EVIDENCE, ENGLAND AND WALES

**The Blood Tests (Evidence of Paternity) (Amendment)
Regulations 2001**

<i>Made</i> - - - -	<i>6th March 2001</i>
<i>Laid before Parliament</i>	<i>8th March 2001</i>
<i>Coming into force</i>	<i>1st April 2001</i>

The Lord Chancellor, in exercise of the powers conferred by section 22 of the Family Law Reform Act 1969(a) and now vested in him(b), hereby makes the following Regulations:—

Citation, commencement, interpretation and transitional provisions

1. These Regulations may be cited as the Blood Tests (Evidence of Paternity) (Amendment) Regulations 2001 and shall come into force on 1st April 2001.

2. The Blood Tests (Evidence of Paternity) Regulations 1971(c) shall be amended in accordance with the provisions of these Regulations and, in those provisions, any reference to a regulation or form by number alone shall be construed as a reference to the regulation or form so numbered in the said Regulations of 1971 or in Schedule 1 to those Regulations.

3. These Regulations apply to proceedings begun on or after 1st April 2001.

Amendment of the Blood Tests (Evidence of Paternity) Regulations

4. In regulation 2(1)—

- (a) in the definition of “court”, for “blood tests” substitute “scientific tests”;
- (b) for the definition of “sample”, substitute “ “sample” means bodily fluid or bodily tissue taken for the purpose of scientific tests;”;
- (c) for the definition of “sampler”, substitute “ “sampler” means a registered medical practitioner, or a person who is under the supervision of such a practitioner and is either a registered nurse or a registered medical laboratory technician, or a tester;”;
- (d) in the definition of “subject”, for “blood samples” substitute “bodily samples”;
- (e) for the definition of “tester”, substitute “ “tester” means an individual employed to carry out tests by a body which has been accredited for the purposes of section 20 of the Act either by the Lord Chancellor or by a body appointed by him for those purposes and which has been nominated in a direction to carry out tests;”;
- (f) in the definition of “tests”, for “blood tests” substitute “scientific tests” and for “characteristics of blood” substitute “characteristics of bodily fluids or bodily tissue”.

(a) 1969 c. 46; section 22 was amended by the Child Support, Pensions and Social Security Act 2000 (c. 19), section 82.

(b) S.I. 1992/709.

(c) S.I. 1971/1861, amended by S.I. 1989/776, 1990/319, 1990/1025, 1991/2472, 1992/709, 1992/1369.

5. In regulation 2, in paragraph (2), for “blood tests” substitute “scientific tests”.
6. In regulation 5, in paragraph (3), after “(i)” insert “in the case of a blood sample,”.
7. In regulation 6—
 - (a) in paragraph (2), delete the words from “unless the direction form” to the end;
 - (b) delete paragraph (4);
 - (c) at the end of sub-paragraph (b) of paragraph (5), add “; or”, and add the following new sub-paragraph—
 - “(c) where he is under the age of sixteen years, and the person with care and control of him does not consent, the court has nevertheless ordered that a sample be taken.”;
 - (d) in paragraph (8), delete “and by that subject or, if he is under a disability, the person accompanying him”.
8. In regulation 7, in paragraph (1), for “special delivery service” substitute “recorded delivery”.
9. In regulation 8, in paragraph (1), for “medical practitioner or tester” substitute “sampler”.
10. After regulation 8, insert the following new regulation—

“Accreditation

8A.—(1) Subject to paragraph (2), a body shall not be eligible for accreditation for the purposes of section 20 of the Act unless it is accredited to ISO/IEC/17025(a) by an accreditation body which complies with the requirements of ISO Guide 58(b).

(2) A body which employs a person who at the date of the coming into force of the Blood Tests (Evidence of Paternity) (Amendment) Regulations 2001 was a tester appointed by the Lord Chancellor shall, until three years after that date, be eligible for accreditation for the purposes of section 20 of the Act notwithstanding that it does not comply with paragraph (1).”.

11. In regulation 9, in paragraph (2), for “the father of a subject whose paternity is in dispute” substitute “the father or mother of the person whose parentage falls to be determined”.
12. In Form 1—
 - (a) for “blood tests”, wherever it appears, substitute “scientific tests”;
 - (b) for “paternity”, wherever it appears, substitute “parentage”;
 - (c) for “blood sample” substitute “bodily sample”;
 - (d) for “blood samples” substitute “bodily samples”.
13. In Form 1, in Part II—
 - (a) after “*to whom form relates*.” insert—

“[*The sample is to be taken notwithstanding the refusal to consent of the person with care and control of . . . (<i>name of person to whom form relates</i>).]”;	Delete if not applicable
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 - (b) for “name and address of tester” substitute “name and address of accredited body”;
 - (c) delete “[or the tester by whom you have arranged for the tests to be made]”.
14. In Form 1, in Part IV, after “*by sampler*” insert “*where sample is of blood*”.

(a) General Requirements for the Competence of Testing and Calibration Laboratories, obtainable from any of the sales outlets operated by the British Standards Institute.

(b) Calibration and Testing Laboratory Accreditation Systems—General Requirements in Operation and Recognition, obtainable from any of the sales outlets operated by the British Standards Institute.

15. In Form 1, after Part VIII, insert—

“Part VIIIA

Request to accredited body to carry out tests

To(name and address of accredited body).

You are hereby requested to carry out scientific tests on a bodily sample from
.....(name of person to whom form relates).”

16. In Form 1, in Part IX, for “special delivery service” substitute “recorded delivery”.

17. In Form 2—

- (a) for “Registrar” substitute “Court Manager”;
- (b) for “Justices’ Clerk” substitute “Justices’ Chief Executive”;
- (c) for “being a blood tester appointed by the Lord Chancellor for the purpose of Part III” substitute “being employed to carry out scientific tests by a body which has been accredited for the purposes of section 20”;
- (d) for “blood tests” substitute “scientific tests”;
- (e) delete “Mr”;
- (f) for “paternity”, in both places where it appears, substitute “parentage”;
- (g) after “father” insert “or mother”;
- (h) for “*Test Report*” substitute “*Report of Scientific Tests*”.

Dated 6th March 2001

Irvine of Lairg, C.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Blood Tests (Evidence of Paternity) Regulations 1971 to give effect to amendments made to Part III of the Family Law Reform Act 1969 by the Family Law Reform Act 1987 (c. 42) and the Child Support, Pensions and Social Security Act 2000 (c. 19). Part III permits blood tests to be used to determine paternity in civil proceedings. The amendments make it possible for samples to be taken of bodily tissue and bodily fluid other than blood and for scientific tests to be used to establish whether a person is the mother of the person whose parentage falls to be determined, as well as whether a person is the father. They provide that tests are to be carried out by an accredited body rather than a named individual, and lay down the conditions which a body must meet if it is to be accredited. They also reflect the courts' new jurisdiction to order that a sample be taken from a person under 16, where it would be in his best interests for the sample to be taken, even though the person with care and control of the person does not consent.

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