STATUTORY INSTRUMENTS

2008 No. 972

EVIDENCE

The Blood Tests (Evidence of Paternity) (Amendment) Regulations 2008

Made - - - -	*3rd April 2008*
Laid before Parliament	*3rd April 2008*
Coming into force - -	*25th April 2008*

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by section 22(1) of the Family Law Reform Act 1969(**a**), and now vested in him(**b**):

Citation, commencement, interpretation and transitional provisions

1. These Regulations may be cited as the Blood Tests (Evidence of Paternity) (Amendment) Regulations 2008 and shall come into force on 25th April 2008.

2. In these Regulations —

(a) a reference to a regulation by number alone is a reference to the regulations so numbered in the Blood Tests (Evidence of Paternity) Regulations 1971(**c**); and

(b) a reference to a form by number alone means the form so numbered in Schedule 1 to those Regulations.

3. These Regulations apply in relation to directions given by the court under section 20(1) of the Family Law Reform Act 1969(**d**) on or after 25th April 2008.

Amendments to the Blood Tests (Evidence of Paternity) Regulations 1971

4. In regulation 2—

(a) in paragraph (1), after the definition of "photograph" insert—

""protected party" means a person who lacks capacity, within the meaning of the Mental Capacity Act 2005(**e**), to consent to tests"; and

(b) omit paragraph (2).

5. For the heading to regulation 4, substitute—

(**a**) 1969 c.46; section 22 was amended by the Family Law Reform Act 1987 (c.42), Schedule 2, paragraph 23 and by the Child Support, Pensions and Social Security Act 2000 (c.19), section 82.
(**b**) S.I. 1992/709, article 3 and Schedule 2.
(**c**) S.I. 1971/1861 amended by S.I. 1978/776, 1990/359, 1991/2472, 1992/1369, 2001/773 and 2004/596.
(**d**) Section 20(1) was substituted by section 23(1) of the Family Law Reform Act 1987 (c.42.).
(**e**) 2005 c.9.

"Subject who is under 16 or a protected party to be accompanied to sampler".

6. In regulation 4, for "under a disability", substitute "under 16 or a protected party".

7. For regulation 6(2), substitute—

"(2) The sampler shall ensure that a photograph of the subject is attached to the direction form relating to him before he takes a sample from that subject.".

8. In regulation 6(3), (5) and (7), for "under a disability", wherever it occurs, substitute "under 16 or a protected party".

9. In regulation 6(8), after "suitable", insert ",tamper-proof,".

10. In regulation 7(1), for "recorded delivery", substitute "recorded signed for delivery or international signed for delivery".

11. For regulation 8A(1) substitute—

"(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/IEC17025(**a**) by—

(a) a Full Member of the International Laboratory Accreditation Cooperation ("ILAC"); or

(b) a body that is a signatory to an ILAC Recognised Regional Cooperation Body.".

12. In regulation 12(1), for "£27.50", substitute "£37.90".

13. In Form 1—

(a) in Part 1, for "suffering from a mental disorder within the meaning of the Mental Health Act 1959 and is incapable of understanding the nature and purpose of scientific tests" substitute "a protected party";

(b) in Part III, omit ",being a person who has attained the age of twelve months";

(c) in Part IV, for "suffering from mental disability" substitute "a protected party";

(d) in Parts V and VI, for "*suffering from a mental disability*", wherever it occurs, substitute "*a protected party*"; and

(e) in Part IX, for "recorded delivery" substitute "recorded signed for delivery/international signed for delivery".

14. In Form 2, for "by a body" substitute "by…….(*name of accredited body*) being a body".

15. In Forms 1 and 2, immediately below "……(Signed)", wherever it appears, insert "…… (Print)".

Signed on behalf of the Lord Chancellor

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

3rd April 2008

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Blood Tests (Evidence of Paternity) Regulations 1971 to bring the terminology into line with that used by the Mental Capacity Act 2005 (c.9). Further minor changes have been made as follows—

to remove the exception that a photograph is not required for a subject under the age of 12 months;

to update the references to postal delivery to refer to recorded signed for and to include international signed for;

to require samples to be sent in tamper proof containers;

to amend the accreditation requirements to allow a body to be eligible for accreditation if it is accredited to the relevant standard by a body that is a signatory to an ILAC Recognised Regional Cooperation Body; and

to increase the sampler's fee.

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£3.00

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Stationery Office and Queen's Printer of Acts of Parliament.

E2330 4/2008 182330T 19585