1978 No. 378

COUNTY COURTS

County Court (Blood Tests) Rules (Northern Ireland) 1978

Made . . . . . 14*th December* 1978

Coming into operation . . . . 1*st March* 1979

To be laid before Parliament

The Secretary of State in pursuance of section 146 of the County Courts Act (Northern Ireland) 1959(a), on the recommendation of the County Court Rules Committee and after consultation with the Lord Chief Justice, hereby makes the following rules:

Citation and commencement

1. These rules may be cited as the County Court (Blood Tests) Rules (Northern Ireland) 1978 and shall come into operation on 1st March 1979.

Interpretation

2. In these rules—

"the Order" means Part III of the Family Law Reform (Northern Ireland) Order 1977(b);

"blood samples" and "blood tests" have the meanings assigned to them by article 13 of the Order;

"direction" means a direction for the use of blood tests under article 8(1) of the Order;

and any reference to a Form by number is to that Form as numbered in the Schedule.

Application for direction

3.—(1) Except with the leave of the court, an application in proceedings to the county court for a direction shall be made on notice to every party to the proceedings (other than the applicant) and to any person from whom the direction involves the taking of blood samples.

(2) The application may be made before the hearing of the proceedings and, where it is on notice, the notice shall be in Form 1 and the applicant shall serve a copy of the notice on the clerk of the Crown and peace not less than two days before the hearing of his application and the clerk of the Crown and peace shall fix a time for the hearing of the application before the judge.

(3) Where an application is made for a direction involving the taking of blood samples from a person who is not a party to the proceedings in which the application is made, the notice of application shall be served on him personally and the court may at any time direct him to be made a party to the proceedings.

(a) 1959 c. 25 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)
(b) S.I. 1977/1250 (N.I. 17)

(4) Where an application is made for a direction in respect of a person (in this paragraph referred to as a person under disability) who is either—

(*a*) under the age of 16 years; or

(*b*) suffering from mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961(c) and incapable of understanding the nature and purpose of blood tests—

the notice of application shall state the name and address of the person having the care and control of the person under disability and shall be served on him instead of the person under disability.

Making of direction and report

4.—(1) A direction shall be in Form 2 and the clerk of the Crown and peace shall send a copy of the direction to every party to the proceedings and to every other person from whom the direction involves the taking of blood samples and, unless otherwise ordered, the proceedings shall stand adjourned until the court receives a report pursuant to the direction.

(2) On receipt by the court of a report made pursuant to a direction, the clerk of the Crown and peace shall send a copy to every party to the proceedings and to every other person from whom the direction involves the taking of blood samples.

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

Northern Ireland Office
14th December 1978

(c) 1961 c. 15 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541)

SCHEDULE

FORM NO. 1 Rule 3(2)

Notice of Application for Direction under article 8(1) of Family Law Reform (Northern Ireland) Order 1977 for taking of Blood Test

[*Title as in Proceedings*]

IN THE COUNTY COURT/RECORDER'S COURT for the Division of

TAKE NOTICE that the applicant
(*name*) of
(*address*) intends to apply to the above-named County Court/Recorder's Court for a direction under article 8(1) of the Family Law Reform (Northern Ireland) Order 1977 that blood tests be used to ascertain whether such tests show that
(*name*) of
(*address*) is or is not excluded from being the father of
and that for that purpose blood samples shall be taken from:—

[The person appearing to the court to have the care and control of
being a person [who has not attained the age of 16 years] [is suffering from 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
.]

Dated the day of 19 .

[Solicitor for] Applicant

To
(*party to proceedings or person from whom blood sample to be taken or, where such person is under* 16 *or is suffering from mental disorder, person having care or control of him*)
and to the clerk of the Crown and peace at
(*courthouse*)

FORM NO. 2 Rule 4(1)

Direction under article 8(1) of Family Law Reform (Northern Ireland) Order 1977 for taking of Blood Test

[Title as in Proceedings]

BY THE COUNTY COURT JUDGE/RECORDER

IN THE COUNTY COURT for the Division of

By virtue of the power conferred upon the court by article 8(1) of the Family Law Reform (Northern Ireland) Order 1977 and on the application of the court hereby directs that blood tests be used to ascertain whether such tests show that is or is not excluded from being the father of and that for that purpose blood samples shall be taken from:—

And it is further ordered that such samples shall be taken before the day of 19 .

Dated at this day of 19 .

Clerk of the Crown and Peace

(Seal)

[Solicitor for] Applicant

[The person appearing to the court to have the care and control of being a person who [has not attained the age of 16 years] [is suffering from 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 .]

EXPLANATORY NOTE

(This note is not part of the Rules 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.

These rules prescribe the practice and procedure to be adopted in the county court in such proceedings in which the paternity of any person falls to