

*These notes refer to the Family Law Act (Northern Ireland)
2001 (c.12) which received Royal Assent on 17 July 2001*

Family Law Act (Northern Ireland) 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Acquisition of parental responsibility by father or step-parent

This section amends the Children (Northern Ireland) Order 1995 and provides that an unmarried father who jointly registers the birth of his child with the child's mother shall have parental responsibility for that child. It also provides that a step-parent may apply to a court for an order conferring parental responsibility on the step-parent in relation to a child of his or her spouse. In both cases that parental responsibility may be terminated only by court order.

Subsection (2) amends the Children (Northern Ireland) Order 1995 to provide a positive statement that the unmarried father of a child acquires parental responsibility if he meets any of the three requirements listed and has not ceased to have it.

Subsection (3) makes provision for a step-parent acquiring parental responsibility. It also states that a step-parent who acquires parental responsibility as a result of a court order does not give that person the right to give consent (or agree) or refuse consent (or refuse to agree) to the making of an application or the making of certain orders under the Adoption (Northern Ireland) Order 1987; or to appoint a guardian for the child.

Subsection (4) lists the various statutory provisions under which registration of a child's birth in the United Kingdom will be recognized as conferring parental responsibility on an unmarried father.

Subsection (6) provides that a court considering an application for a parental responsibility order by either an unmarried father or a step-parent must have regard to the matters (welfare checklist) listed in Article 3(3) of the Children (Northern Ireland) Order 1995

Section 2: Presumption of parentage

This section provides that a man shall be presumed to be the father of a child in certain circumstances: namely if (a) he is married to the child's mother; or (b) he has been registered as the child's father in the Register of Births in any place in the United Kingdom. In other circumstances a court may have made an order on the basis that a man is the father of a child. In those circumstances the existence

of a court order would constitute evidence of paternity. The presumption that a man is the father of his wife's children already exists at common law and (a) above simply puts this in statutory form.

Section 3: Tests for determining parentage

This section amends the Family Law Reform (NI) Order 1977 and will enable courts to direct the taking and testing of bodily samples for use in scientific tests for the purpose of resolving questions of parentage, that is whether a named individual is or is not the father or mother of a child. At present courts are confined to directing the taking and testing of blood samples only. The new scientific tests can be carried out other types of tissue such as skin, saliva, or hair. Other amendments to the Family Law Reform (Northern Ireland) Order 1977 are contained in section 65 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2001. The implementation of the amendments contained in section 3 of this Act is dependent on section 65 of the new child support legislation being brought into force.

Sections 4 and 5: Commencement and Short Title

These sections provide that the Department of Finance and Personnel may bring into operation the provisions of the Act on such day or days as it may by order appoint, and provide for the short title to the Act.