

*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

BACKGROUND AND POLICY OBJECTIVES

3. Under the Children (Northern Ireland) Order 1995 unmarried fathers may acquire parental responsibility for their children in a number of ways. Parental responsibility is defined in that Order as “all the rights, duties, powers and responsibility and authority which by law a parent of a child has in relation to the child and his property”. This definition does not list or enumerate all the decisions that may lawfully be taken by a person with parental responsibility for a child. Such decisions would include, for example, the right to determine a child’s education or make other decisions about a child’s welfare. The principal mechanisms by which an unmarried father may acquire parental responsibility are (1) by written agreement with the child’s mother who has been registered in the High Court, and (2) by Order of the Court. These mechanisms are rarely used.
4. The low take-up of the existing mechanisms whereby an unmarried father may acquire parental responsibility for his children must be set against recent demographic trends in Northern Ireland. According to the most recent report of the Registrar-General for Northern Ireland, in 1999 there were 6,957 live births outside of marriage which represents 30.3% of all live births. The proportion of live births outside marriage has been increasing steadily since the early sixties when the proportion of children born outside marriage was only about 3 per cent.
5. It is clear then that given the large number of live births outside marriage each year in Northern Ireland and the low take up of the existing legislative mechanisms there is a significant number of unmarried fathers who do not have parental responsibility for their children. Or to put the issue from a child-centred perspective there are many children in Northern Ireland who have no legal relationship with their fathers.
6. Supporting family relationships is an important social policy aim in all societies. Of all live births outside marriage in 1999 some 4487 were jointly registered by the mother and unmarried father (approx 64.5%). Recent research has indicated that many unmarried parents believe that by jointly registering the child’s birth (a public acknowledgement that the unmarried man is the father of the child) a legal relationship between father and child is established. This is not at present the legal position.

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7. The primary purpose of this Act is to facilitate the acquisition of parental responsibility by unmarried fathers. The Act also updates the law on scientific tests to determine parentage and thirdly, introduces a statutory presumption of paternity in certain cases.