



# Family Law Reform Act 1969

## 1969 CHAPTER 46

### PART III

#### PROVISIONS FOR USE OF BLOOD TESTS IN DETERMINING PATERNITY

#### **20 Power of court to require use of blood tests**

- (1) In any civil proceedings in which the paternity of any person falls to be determined by the court hearing the proceedings, the court may, on an application by any party to the proceedings, give a direction for the use of blood tests to ascertain whether such tests show that a party to the proceedings is or is not thereby excluded from being the father of that person and for the taking, within a period to be specified in the direction, of blood samples from that person, the mother of that person and any party alleged to be the father of that person or from any, or any two, of those persons.

A court may at any time revoke or vary a direction previously given by it under this section.

- (2) The person responsible for carrying out blood tests taken for the purpose of giving effect to a direction under this section shall make to the court by which the direction was given a report in which he shall state—
- the results of the tests ;
  - whether the party to whom the report relates is or is not excluded by the results from being the father of the person whose paternity is to be determined ; and
  - if that party is not so excluded, the value, if any, of the results in determining whether that party is that person's father;

and the report shall be received by the court as evidence in the proceedings of the matters stated therein.

- (3) A report under subsection (2) of this section shall be in the form prescribed by regulations made under section 22 of this Act.
- (4) Where a report has been made to a court under subsection (2) of this section, any party may, with the leave of the court, or shall, if the court so directs, obtain from the person who made the report a written statement explaining or amplifying any statement made

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in the report, and that statement shall be deemed for the purposes of this section (except subsection (3) thereof) to form part of the report made to the court.

- (5) Where a direction is given under this section in any proceedings, a party to the proceedings, unless the court otherwise directs, shall not be entitled to call as a witness the person responsible for carrying out the tests taken for the purpose of giving effect to the direction, or any person by whom any thing necessary for the purpose of enabling those tests to be carried out was done, unless within fourteen days after receiving a copy of the report he serves notice on the other parties to the proceedings, or on such of them as the court may direct, of his intention to call that person; and where any such person is called as a witness the party who called him shall be entitled to cross-examine him.
- (6) Where a direction is given under this section the party on whose application the direction is given shall pay the cost of taking and testing blood samples for the purpose of giving effect to the direction (including any expenses reasonably incurred by any person in taking any steps required of him for the purpose), and of making a report to the court under this section, but the amount paid shall be treated as costs incurred by him in the proceedings.

## **21 Consents, etc., required for taking of blood samples**

- (1) Subject to the provisions of subsections (3) and (4) of this section, a blood sample which is required to be taken from any person for the purpose of giving effect to a direction under section 20 of this Act shall not be taken from that person except with his consent.
- (2) The consent of a minor who has attained the age of sixteen years to the taking from himself of a blood sample shall be as effective as it would be if he were of full age; and where a minor has by virtue of this subsection given an effective consent to the taking of a blood sample it shall not be necessary to obtain any consent for it from any other person.
- (3) A blood sample may be taken from a person under the age of sixteen years, not being such a person as is referred to in subsection (4) of this section, if the person who has the care and control of him consents.
- (4) A blood sample may be taken from a person who is suffering from mental disorder within the meaning of the Mental Health Act 1959 and is incapable of understanding the nature and purpose of blood tests if the person who has the care and control of him consents and the medical practitioner in whose care he is has certified that the taking of a blood sample from him will not be prejudicial to his proper care and treatment.
- (5) The foregoing provisions of this section are without prejudice to the provisions of section 23 of this Act.

## **22 Power to provide for manner of giving effect to direction for use of blood tests**

- (1) The Secretary of State may by regulations make provision as to the manner of giving effect to directions under section 20 of this Act and, in particular, any such regulations may—
  - (a) provide that blood samples shall not be taken except by such medical practitioners as may be appointed by the Secretary of State ;
  - (b) regulate the taking, identification and transport of blood samples;

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- (c) require the production at the time when a blood sample is to be taken of such evidence of the identity of the person from whom it is to be taken as may be prescribed by the regulations ;
  - (d) require any person from whom a blood sample is to be taken, or, in such cases as may be prescribed by the regulations, such other person as may be so prescribed, to state in writing whether he or the person from whom the sample is to be taken, as the case may be, has during such period as may be specified in the regulations suffered from any such illness as may be so specified or received a transfusion of blood ;
  - (e) provide that blood tests shall not be carried out except by such persons, and at such places, as may be appointed by the Secretary of State ;
  - (f) prescribe the blood tests to be carried out and the manner in which they are to be carried out;
  - (g) regulate the charges that may be made for the taking and testing of blood samples and for the making of a report to a court under section 20 of this Act;
  - (h) make provision for securing that so far as practicable the blood samples to be tested for the purpose of giving effect to a direction under section 20 of this Act are tested by the same person ;
  - (i) prescribe the form of the report to be made to a court under section 20 of this Act.
- (2) The power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **23 Failure to comply with direction for taking blood tests**

- (1) Where a court gives a direction under section 20 of this Act and any person fails to take any step required of him for the purpose of giving effect to the direction, the court may draw such inferences, if any, from that fact as appear proper in the circumstances.
- (2) Where in any proceedings in which the paternity of any person falls to be determined by the court hearing the proceedings there is a presumption of law that that person is legitimate, then if—
- (a) a direction is given under section 20 of this Act in those proceedings, and
  - (b) any party who is claiming any relief in the proceedings and who for the purpose of obtaining that relief is entitled to rely on the presumption fails to take any step required of him for the purpose of giving effect to the direction,
- the court may adjourn the hearing for such period as it thinks fit to enable that party to take that step, and if at the end of that period he has failed without reasonable cause to take it the court may, without prejudice to subsection (1) of this section, dismiss his claim for relief notwithstanding the absence of evidence to rebut the presumption.
- (3) Where any person named in a direction under section 20 of this Act fails to consent to the taking of a blood sample from himself or from any person named in the direction of whom he has the care and control, he shall be deemed for the purposes of this section to have failed to take a step required of him for the purpose of giving effect to the direction.

## **24 Penalty for personating another, etc., for purpose of providing blood sample**

If for the purpose of providing a blood sample for a test required to give effect to a direction under section 20 of this Act any person personates another, or proffers a child knowing that it is not the child named in the direction, he shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or
- (b) on summary conviction, to a fine not exceeding £400.

## **25 Interpretation of Part III**

In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say—

" blood samples " means blood taken for the purpose of blood tests;

" blood tests " means blood tests carried out under this Part of this Act and includes any test made with the object of ascertaining the inheritable characteristics of blood;

" excluded " means excluded subject to the occurrence of mutation.