

## SCHEDULES

### SCHEDULE 6

#### REGISTRATION OF BIRTHS

##### PART 1

##### AMENDMENTS OF BIRTHS AND DEATHS REGISTRATION ACT 1953

4 After section 2 of the 1953 Act insert—

##### **“2A Information concerning birth of child whose parents are not married**

- (1) In the case of every birth of a child whose father and mother were not married to each other at the time of the birth, it shall be the duty—
  - (a) of the mother of the child, and
  - (b) in the case of the death or inability of the mother, of each qualified informant falling within section 1(2)(b) to (e),to give to the registrar, before the expiration of a period of 42 days from the date of the birth, information of the particulars required to be registered concerning the birth, together with any other information required by section 2B(1), and in the presence of the registrar to sign the register.
- (2) The giving of information and the signing of the register by any one qualified informant shall act as a discharge of any duty under this section of every other qualified informant, but this does not affect—
  - (a) any duty of the father by virtue of regulations under section 2C (confirmation of parentage information given by mother), or
  - (b) any duty by virtue of regulations under section 2E (scientific tests).
- (3) This section ceases to apply if, before the end of the period mentioned in subsection (1) and before the birth has been registered, an inquest is held at which the child is found to have been still-born.
- (4) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, the reference in subsection (2)(a) to the father is to be read as a reference to the woman who is a parent by virtue of that section.

##### **2B Duties of unmarried mother when acting alone**

- (1) Where no request for the entry of a person’s name as the father of the child is made by virtue of any of paragraphs (a) to (g) of section 10(1) (registration of father where parents are not married) or by virtue of regulations under section 2E (scientific tests), the information to be given under section 2A(1) by the mother includes such information relating to the father as may be

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prescribed for the purposes of this subsection by regulations made by the Minister, which may include information that is not intended to be entered on the register.

- (2) The Registrar General may by regulations authorise or require the information relating to the father to be provided in a prescribed form or manner.
- (3) Subsection (1) does not require the mother to provide information relating to the father if she makes in the presence of the registrar a declaration in the prescribed form stating that one or more of the following conditions is met.
- (4) Those conditions are—
  - (a) that by virtue of section 41 of the Human Fertilisation and Embryology Act 2008 the child has no father,
  - (b) that the father has died,
  - (c) that the mother does not know the father’s identity,
  - (d) that the mother does not know the father’s whereabouts,
  - (e) that the father lacks capacity (within the meaning of the Mental Capacity Act 2005) in relation to decisions under this Part,
  - (f) that the mother has reason to fear for her safety or that of the child if the father is contacted in relation to the registration of the birth, and
  - (g) any other conditions prescribed by regulations made by the Minister.
- (5) Subsection (1) does not apply—
  - (a) in the case of a still-birth,
  - (b) if the child has died, or
  - (c) if the mother acknowledges in accordance with regulations made by virtue of subsection (2)(b) of section 2D (declaration before registration by person claiming to be other parent) that a person who has previously given notice by virtue of subsection (2)(a) of that section is the other parent of the child.
- (6) The Minister may by regulations provide that, except in such cases as the regulations may prescribe, where the mother is required by subsection (1) to give information relating to the father—
  - (a) the mother’s duty under section 2A to sign the register is to have effect as a duty to sign a declaration in such form as may be so prescribed,
  - (b) the registrar is not to register the birth of the child until such time as may be determined in accordance with the regulations, and
  - (c) the entry in the register is to be taken for the purposes of this Act to have been signed by the person who signed the declaration.
- (7) No information relating to the father is to be entered in the register merely because it is given by the mother by virtue of subsection (1).
- (8) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008—
  - (a) references in this section to the father are to be read as references to the woman who is a parent by virtue of that section,

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- (b) the reference in subsection (1) to paragraphs (a) to (g) of section 10(1) is to be read as a reference to paragraphs (a) to (f) of section 10(1B), and
- (c) paragraphs (a) and (c) of subsection (4) do not apply.

## **2C Confirmation of parentage information given by mother**

- (1) The Minister may by regulations provide for a procedure under which a person may be registered as the father of a child in a case where information relating to that person is given by virtue of section 2B(1) by the mother of the child and is subsequently confirmed by that person.
- (2) Regulations under this section may in particular—
  - (a) enable or require the registrar by notice to require the person in relation to whom information has been given by virtue of section 2B(1) by the mother (“the alleged father”) to state whether or not he acknowledges that he is the father of the child,
  - (b) where the alleged father acknowledges that he is the father of the child, require the alleged father to give prescribed information to the registrar,
  - (c) where the alleged father gives that information to the registrar, require the registrar to enter the alleged father’s name in the register as the father of the child or, where the birth has already been registered, to re-register the birth so as to show the alleged father as the father, and
  - (d) provide that in prescribed cases where the alleged father is not required by the regulations to sign the register, the entry in the register is to be taken for the purposes of this Act to have been signed by the alleged father.
- (3) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, references in subsection (1) or (2) to the father are to be read as references to the woman who is a parent by virtue of that section (and references to the alleged father have a corresponding meaning).
- (4) Regulations under this section may—
  - (a) require anything to be done in a prescribed form or manner or in the presence of the registrar,
  - (b) make provision as to the time within which anything is required or authorised to be done.
- (5) In this section “prescribed” means prescribed by regulations made under this section by the Minister.

## **2D Declaration before registration by person claiming to be other parent**

- (1) The Minister may by regulations provide for a procedure under which a person may be registered as the father of a child whose father and mother were not married to each other at the time of the child’s birth, on the basis of information that is—
  - (a) given by that person (in the absence of the mother) before the birth is registered, and

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- (b) confirmed by the mother when she provides information of the particulars required to be registered concerning the birth.
- (2) Regulations under this section may in particular—
- (a) enable a person who believes himself to be the father of a child to make a declaration to that effect to the registrar before the birth of the child is registered,
  - (b) require the mother of the child, on giving information concerning the birth of the child or in such other circumstances as may be prescribed, to state whether or not she acknowledges that the person is the father of the child,
  - (c) where the mother acknowledges that the person is the father of the child, require the registrar to enter the person’s name in the register as the father of the child, and
  - (d) provide that in prescribed cases where the person is not required by the regulations to sign the register, the entry in the register is to be taken for the purposes of this Act to have been signed by the person.
- (3) In the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, references in subsections (1) and (2) to the father (except in the reference in subsection (1) to a child whose father and mother were not married to each other at the time of the child’s birth) are to be read as references to the woman who is a parent by virtue of that section.
- (4) Regulations under this section may—
- (a) require anything to be done in a prescribed form or manner or in the presence of the registrar,
  - (b) make provision as to the time within which anything is required or authorised to be done.
- (5) This section does not apply—
- (a) in relation to a still-birth, or
  - (b) if the child has died.
- (6) In this section “prescribed” means prescribed by regulations made under this section by the Minister.

## **2E Use of scientific tests with consent of parties**

- (1) The Minister may by regulations make provision enabling a report of a qualifying scientific test to be used in connection with the registration or re-registration under this Act of the birth of a child in cases where—
- (a) the birth has not been registered under this Act, or
  - (b) the birth has been registered but no person has been registered as the father of the child (or as a parent of the child by virtue of section 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008).
- (2) A qualifying scientific test is a scientific test that complies with prescribed requirements and is carried out by a person who is accredited by the Minister for the purposes of this section in accordance with the regulations.

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- (3) The regulations may not require any person to participate in a qualifying scientific test.
- (4) The regulations may not enable or require a report of a qualifying scientific test to be used as mentioned in subsection (1) unless, before the test is carried out, the mother and the man to whom the test relates—
  - (a) consent to the carrying out of the test, and
  - (b) agree in the prescribed manner that if the report of the test is positive the man's name will be entered in the register as the father of the child.
- (5) For the purposes of this section, the report of a qualifying scientific test is positive if the report states that the result of the test indicates to a prescribed degree of certainty that the man concerned is the father of the child.
- (6) Regulations under this section may—
  - (a) enable or require the mother or the man, if the report of the qualifying scientific test is positive, to apply for the registration (or re-registration) of the birth so as to show the man as the father,
  - (b) provide that where the regulations enable or require the man to apply for registration, the man is to be treated for the purposes of this Part as a qualified informant concerning the birth of the child,
  - (c) impose obligations on the registrar in relation to the registration (or re-registration) of the birth,
  - (d) require anything to be done in a prescribed form or manner or in the presence of the registrar,
  - (e) make provision as to the time within which anything is required or authorised to be done.
- (7) The regulations may not require the registrar to enter a man's name in the register as the father of a child if it appears to the registrar that by virtue of any provision of sections 35 to 47 of the Human Fertilisation and Embryology Act 2008 the man is not the father of the child.
- (8) This section does not apply in relation to a still-birth.
- (9) In this section “prescribed” means prescribed by regulations made under this section by the Minister.”