

STATUS OF CHILDREN ACT

CHAPTER 46:07

Act
17 of 1981
Amended by
6 of 1993
27 of 2000*

*See Note on page 2

Current Authorised Pages

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<i>(inclusive)</i>	<i>by L.R.O.</i>
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Note on Act No. 27 of 2000

Sections 2, 13, 14, 15, 16 and 17 of this Act have been amended by the Deoxyribonucleic Acid (DNA) Identification Act, 2000 (Act No. 27 of 2000) but Act No. 27 of 2000 had not, at the date of the revision of this Act, been proclaimed.

However, the Amendments contained in Act No. 27 of 2000 are set out in an Appendix at the end of the Act.

CHAPTER 46:07

STATUS OF CHILDREN ACT

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CHAPTER 46:07

STATUS OF CHILDREN ACT

17 of 1981. **An Act to remove the legal disabilities of Children born out of wedlock.**

Commencement. [1ST MARCH 1983]
[33/1983].

PRELIMINARY

Short title. **1.** This Act may be cited as the Status of Children Act.

Interpretation. **2.** (1) In this Act—
“child” includes a person who has attained the age of eighteen years;
“child born in wedlock” means a child whose parents were married to each other when the child was conceived or born or between those times, and “child not born in wedlock” means any other child;
“marriage” includes a void or voidable marriage, and “marry” has a corresponding meaning;
“Minister” means the Minister to whom responsibility for the administration of this Act is assigned;
“Registrar General” means the person for the time being holding office as Registrar General under the Births and Deaths Registration Act and includes any person for the time being discharging the duties of that office.

Ch. 44:01.

(2) For the purposes of sections 13 to 17 inclusive—
“blood samples” means blood taken for the purpose of blood tests;
“blood tests” means blood tests carried out and includes any test made with the object of ascertaining the inheritable characteristics of blood;
“excluded” means excluded subject to the occurrence of mutation;
“tester” means a medical practitioner designated by the Minister to carry out blood tests.

STATUS OF CHILDREN

3. (1) Notwithstanding any other written law or rule of law to the contrary for all the purposes of the law of Trinidad and Tobago—

All children of equal status.

- (a) the status and the rights, privileges and obligations of a child born out of wedlock are identical in all respects to those of a child born in wedlock;
- (b) save as provided in this Act, the status and the rights and obligations of the parents and all kindred of a child born out of wedlock are the same as if the child were born in wedlock; but this provision shall not affect the status, rights or obligations of the parents as between themselves.

(2) The rule of construction whereby in any Will, Deed, or other instrument words of relationship, in the absence of a contrary expression of intention, signify relationship derived only from wedlock is abolished.

(3) For the purpose of construing any instrument words denoting a family relationship shall, in the absence of a contrary expression of intention, cease to be presumed to refer only to relationship by marriage and for the purpose of construing any instrument, in the absence of a contrary expression of intention, reference to a child or children includes a child or children whether or not born in wedlock.

(4) Subsections (1) to (3) shall apply with respect to every person, whether born before or after the commencement of this Act, and whether born in Trinidad and Tobago or not, and whether or not his father or mother has ever been domiciled in Trinidad and Tobago.

4. (1) This Act does not affect rights which became vested before its commencement.

Application of this Act.

(2) Save as provided in subsection (1) this Act applies to persons born and instruments executed before as well as after its commencement.

Protection of personal representatives and trustees.

5. For the purposes of the administration or distribution of the estate of any deceased person or of any other property held upon trust—

(a) a person born out of wedlock shall be presumed not to have been survived by his father or any other paternal relative unless the contrary is shown;

(b) a person born in wedlock shall be presumed not to have been survived by a child of his father, father's mother, grandfather or mother's mother born out of wedlock unless the contrary is shown,

and no trustee or personal representative shall be liable to any such person of whose claim he has not had notice at the time of the conveyance or distribution, but nothing in this section shall prejudice the right of any person to follow the property or any property representing it into the hands of any person other than a *bona fide* purchaser without notice who may have received it.

EVIDENCE AS TO PARENTHOOD

Presumptions as to parenthood of child born during marriage.

6. (1) Subject to subsections (2) and (3), a child born to a woman during her marriage, or within ten months after the marriage has been dissolved by death or otherwise, shall, in the absence of evidence to the contrary, be presumed to be the child of his mother and her husband, or former husband, as the case may be.

(2) Subsection (1) shall not apply if, during the whole of the time within which the child must have been conceived, the mother and her husband were living apart from each other whether as a matter of fact or under a decree or order of separation, or *decree nisi* of divorce, made by a competent Court or authority in Trinidad and Tobago or elsewhere.

(3) Subsection (1) shall not apply where a child is born within ten months after the dissolution of the marriage of his mother by death or otherwise, and after she has married again, and in such case there shall be no presumption as between the husband of the mother and her former husband that either is the father of the child, and the question shall be determined on the balance of probabilities in each case.

7. The relationship of father and child, and any other relationship traced in any degree through that relationship shall be recognised only if—

Recognition of paternity.

(a) the father and the mother of the child were married to each other at the time of his conception or birth or between those times; or

(b) paternity has been registered in a register of births pursuant to the Births and Deaths Registration Act or established by any of the modes specified in section 8 or 10 of this Act.

Ch. 44:01.

8. (1) If, pursuant to section 21 of the Births and Deaths Registration Act the name of the father of the child to whom the entry relates has been entered in the register book of births (whether before or after the commencement of this Act) a certified copy of the entry made or given and purporting to be signed in accordance with section 46 of that Act shall be *prima facie* evidence that the person named as the father is the father of the child.

Evidence and proof of paternity.
Ch. 44:01.

(2) A paternity order within the meaning of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, shall be *prima facie* evidence of the fact of paternity in any subsequent proceedings whether or not between the same parties.

Ch. 46:08.

(3) A paternity order made under section 10 shall, for all purposes, be *prima facie* proof of the matters contained in it.

(4) An order made in any country outside Trinidad and Tobago declaring a person to be the father or putative father of a child, being an order to which this section applies, shall be *prima facie* evidence that the person declared to be the father or putative father, as the case may be, is the father of the child.

(5) The President may from time to time, by Order published in the *Gazette*, declare that subsection (4) applies with respect to orders made by any Court or public authority in any specified country outside Trinidad and Tobago or by any specified Court or public authority in any such country.

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Acknowledgements may be filed with Registrar General.

9. (1) Any statutory declaration made by the mother of a child and by any person acknowledging that he is the father of the child and further declaring that such person exhibited evidence of identification together with a statement specifying the nature of such evidence or a duplicate or attested copy of any such statutory declaration may, in the prescribed manner and on payment of the prescribed fee, if any, be filed in the office of the Registrar General.

Ch. 7:01.

(2) In the case of a person who is in Trinidad and Tobago the authorities before whom a statutory declaration for the purposes of subsection (1) may be made are a notary public, a Magistrate or some other person lawfully authorised under the Oaths Act to administer oaths.

(3) In the case of a person who is not in Trinidad and Tobago the authorities before whom a statutory declaration for the purposes of subsection (1) may be made are a Trinidad and Tobago diplomatic agent or a consular officer or a notary public or some other person lawfully authorised to administer oaths in the country or place where the declaration is made.

(4) The Registrar General shall upon the request of any person who he is satisfied has a proper interest in the matter and, on receipt of the prescribed fee, if any, cause a search of any index of statutory declarations filed with him under subsection (1) to be made, and shall permit any such person to inspect any such declaration or any duplicate or copy thereof.

Ch. 46:08.

(5) Where the High Court makes a paternity order under section 10 of this Act or where a Magistrate's Court makes a paternity order within the meaning of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, the Registrar of the Supreme Court or the Clerk of the Peace, as the case may be, shall forward a copy of such order to the Registrar General for filing in his office under this section, and on his receipt of any such copy the Registrar General shall file it accordingly as if it were an instrument of the kind prescribed in subsection (1).

Power of Court to make paternity order.

10. (1) Any person who—

(a) being a woman, alleges that any named person is the father of her child;

- (b) alleges that the relationship of father and child exists between himself and any other person;
- (c) alleges that he is the father of an unborn child; or
- (d) being a person having a proper interest in the result, wishes to have it determined whether the relationship of father and child exists between two named persons,

may apply in such manner as may be prescribed by Rules of Court to the High Court for a declaration of paternity, and if it is proved to the satisfaction of the Court that the relationship exists the Court may make a paternity order whether or not the father or child or both of them are living or dead.

(2) An application under this section may be brought on behalf of the child by any person acting on his behalf.

(3) The High Court has jurisdiction under this section if at the date of the making of any application under this section—

- (a) the child to whom the application relates is actually present in Trinidad and Tobago or, if deceased, was born in Trinidad and Tobago or was domiciled in Trinidad and Tobago at the date of his death; or
- (b) the alleged parent of the child against whom the application is brought is actually present in Trinidad and Tobago or, if deceased, was born in Trinidad and Tobago or domiciled in Trinidad and Tobago at the date of his death,

and the High Court also has jurisdiction under this section where—

- (a) the child, though absent from Trinidad and Tobago at the time of the proceedings, is a citizen of Trinidad and Tobago; or
- (b) the alleged parent of the child against whom the application is brought, though absent from Trinidad and Tobago at the time of the proceedings, is a citizen of Trinidad and Tobago.

(4) No proceeding under this section shall affect any final judgment or decree already pronounced or made by a Court of competent jurisdiction.

(5) Where on an application to the High Court under this section the Court has made or has refused to make an order there shall be the same rights of appeal as are in force or exist for the time being in respect of civil proceedings in the High Court and the provisions of the Supreme Court of Judicature Act, and the Rules of the Supreme Court, and the Court of Appeal Rules, shall apply to such appeals.

Ch. 4:01.

Notice of application for paternity order.

11. (1) Unless the Court otherwise directs, notice of an application for a paternity order shall be given to—

- (a) the person claimed to be a child or any person named by law to be served on his behalf, and
- (b) the person alleged to be the father or mother, as the case may be, of the child, and the person having custody of the child, or
- (c) the committee of a mentally incompetent person or the committee of a mentally incompetent child or in the absence of such a committee the Attorney General; and
- (d) any other person claiming to be a parent.

(2) Upon application the Court shall—

- (a) consider whether or not any other person should receive notice; and
- (b) direct that notice be given to any person who in its opinion should have an opportunity to be heard.

Duration of paternity order.

12. (1) A paternity order remains in force until it is set aside under this section.

(2) An application to set aside a paternity order may be made with leave of the Court to the Court by which the order was made.

(3) Notice of the application shall be given to the person specified in section 11.

(4) The Court may confirm the order or set it aside.

(5) The setting aside of a paternity order shall not, unless the Court otherwise directs, affect rights which vested while the order was in force.

BLOOD TESTS

13. (1) In any civil proceedings in which the paternity of any person (hereinafter referred to as “the subject”) falls to be determined by a Court hearing the proceedings, the Court may, on an application by any party to the proceedings, give 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 the subject and for the taking, within a period to be specified in the direction, of blood samples from the subject, the mother of the subject and any party alleged to be the father of the subject or from any, or any two, of those persons.

Power of Court to require use of blood tests.

(2) A Court may at any time revoke or vary a direction previously given by it under this section.

(3) 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—

- (a) the results of the tests;
- (b) whether the person to whom the report relates is or is not excluded by the results from being the father of the subject; and
- (c) if that person is not so excluded, the value, if any, of the results in determining whether that person is the subject’s father,

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

(4) Where a report has been made to a Court under subsection (3), any party to the proceedings 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 in the report, and that statement shall be deemed for the purposes of this section 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 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 anything necessary for the purpose of enabling those tests to be carried out was done, unless—

(a) 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; or

(b) the Court otherwise directs,

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.

Ch. 46:08. (7) In this section “civil proceedings” include any proceedings under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act.

Consents, etc., required for the taking of blood samples.

14. (1) Subject to the provisions of subsections (3) and (4), a blood sample which is required to be taken from any person for the purpose of giving effect to a direction under section 13 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), if the person who has the care and control of him consents or, in the absence of such consent, or, where that consent is unreasonably withheld, if the Court so directs.

(4) A blood sample may be taken from a person who is suffering from mental disorder 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 section 15.

15. (1) Where a Court gives a direction under section 13 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.

Failure to comply with direction for blood tests.

(2) Where in any proceedings in which the paternity of any person falls to be determined by a Court hearing the proceedings there is a presumption of law that that person is the child of another, then if—

- (a) a direction is given under section 13 in those proceedings; and
- (b) any party who is claiming relief in the proceedings and who for the purpose of obtaining that relief is entitled to rely on the presumption fails to take any steps 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), dismiss his claim for relief notwithstanding the absence of evidence to rebut the presumption.

(3) Where any person named in a direction under section 13 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 purposes of giving effect to the direction.

Penalties for personating another *re* blood tests and for tampering with blood sample.

16. (1) If for the purpose of providing a blood sample for a test required to give effect to a direction under section 13 any person personates another, or proffers a child knowing that it is not the child named in the direction, he is liable—

- (a) on conviction on indictment, to imprisonment for two years; or
- (b) on summary conviction, to a fine of one thousand dollars or to imprisonment for six months.

(2) If a person wilfully and maliciously—

- (a) breaks the seal of or opens or causes to be opened any container with a blood sample which is to be delivered to a tester; or
- (b) does any act or thing whereby the due delivery of such container to the tester is prevented or impeded; or
- (c) in any manner tampers with such container,

he is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months.

Insertion of father's name. [6 of 1993].

16A. The Registrar General may pursuant to section 9 or section 10 and upon payment of the prescribed fee insert the name of the father of a child on the birth certificate of that child.

Regulations *re* blood tests.

17. The Minister may by Regulations make provision as to the manner for giving effect to directions under section 13 and, in particular, any such Regulations may—

- (a) provide that blood samples shall not be taken except by such medical practitioners as may be designated by the Minister;
- (b) regulate the taking, identification and transport of blood samples;
- (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 blood 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 Minister;
- (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 13;
- (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 13 are tested by the same person;
- (i) prescribe the form of the report to be made to a Court under section 13.

GENERAL

18. (1) The Minister may, from time to time, make Regulations for all or any of the following purposes:

- (a) prescribing fees and forms for the purposes of this Act;
- (b) providing for such other matters as are contemplated by or necessary for giving full effect to this Act, and for its due administration.

(2) Where the Registrar General is empowered to do any act for which a fee is payable, he may refuse to do the act until the fee is paid.

19. (1) The existing laws shall, as from the date of commencement of this Act, be construed with such adaptations as may be necessary to bring them into conformity with this Act.

(2) The Minister may, from time to time, by Order, make such amendments to any existing law as may appear to him to be necessary for bringing that law into conformity with the provisions of this Act.

(3) For the purposes of this section, the expression “existing law” means any Act, Ordinance, Rule, Regulation, Order or other instrument which has effect as part of the Law of Trinidad and Tobago immediately before the commencement of this Act.

(4) An order made under this section shall be subject to affirmative resolution of Parliament.

SUBSIDIARY LEGISLATION

**BLOOD TESTS (EVIDENCE OF PATERNITY)
REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation and commencement.
2. Interpretation.
3. Direction form.
4. Subjects under disability to be accompanied.
5. Taking of samples.
6. Sampling procedure.
7. Despatch of samples to tester.
8. Where sampler is unable to take samples.
9. Testing of samples.
10. Report by tester.
11. Where tests are not made.
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FIRST SCHEDULE—Forms.

SECOND SCHEDULE—Fees.

[Subsidiary]

92/1983.

**BLOOD TESTS (EVIDENCE OF PATERNITY)
REGULATIONS**

made under sections 17 and 18

Citation and commencement.

1. These Regulations may be cited as the Blood Tests (Evidence of Paternity) Regulations, and shall come into operation on Thursday the 9th day of June 1983.

Interpretation.

2. (1) In these Regulations —

Ch. 46:08.

“civil proceedings” includes an application for maintenance of a minor under section 13 of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act;

“Court” means a Court which gives a direction for the use of blood tests in pursuance of section 13 of the Act;

“direction” means a direction given under section 13 of the Act;

First Schedule.

“direction form” means the form set out as Form 1 in the First Schedule;

“person named” means the mother of a subject or the man who is alleged to be the father of the subject from whom a Court has directed that blood samples shall be taken;

“photograph” means a recent photograph taken full face without a hat, the size of which shall be one and one-half inches by one and one-half inches or thirty-seven millimetres by thirty-seven millimetres;

“sampler” means a medical practitioner designated as such by the Minister pursuant to section 17 of the Act;

“subject” means a person whose paternity being in question in any civil proceedings falls to be determined by a Court hearing the proceedings.

Ch. 28:02.

(2) A reference in these Regulations to a person who is under a disability is a reference to a person who has not attained the age of sixteen years or who is suffering from a mental disorder within the meaning of the Mental Health Act and is incapable of understanding the nature and purpose of blood tests.

3. A sampler shall not take a sample from a subject or from a person named unless Parts I and II of Form 1 in the First Schedule have been completed and the direction form purports to be signed by the proper officer of the Court or some person on his behalf.

Direction form.
Form 1.
Part I.
Part II.
First Schedule.

4. A subject or a person named who is under a disability who attends a sampler for the taking of a sample shall be accompanied by a person of full age who shall identify him to the sampler.

Subjects under
disability to be
accompanied.

5. (1) Without prejudice to the provisions of Rules of Court, a sampler may make arrangements for the taking of samples from a subject or from a person named or may change any arrangement already made and make other arrangements.

Taking of
samples.

(2) Subject to these Regulations, where a subject or a person named attends a sampler in accordance with arrangements made under a direction, the sampler shall take a sample from him on that occasion.

(3) A sampler shall not take a sample from a subject or a person named if—

- (a) he has reason to believe that the subject or the person named has been transfused with blood within three months immediately preceding the day on which the sample is to be taken;
- (b) in his opinion, tests on a sample taken at that time from that subject or that person named could not effectively be carried out for the purposes of and in accordance with the direction; or
- (c) in his opinion, the taking of a sample might have an adverse effect on the health of the subject or the person named.

(4) A sampler may take a sample from a subject or a person named who has been injected with a blood product or blood plasma if, in his opinion, the value of any tests done on that sample would not be thereby affected, but shall inform the tester that the subject or the person named was so injected.

(5) Where a sampler does not take a sample from a subject or a person named in accordance with arrangements made for the taking of that sample and no other arrangements are made, he shall return the direction form relating to the subject or the person named to the Court, having stated on the form his reason for not taking the sample and any reason given by the subject or the person named (or by the person having the care and control of the subject or the person named) for any failure to attend in accordance with those arrangements.

(6) A subject or a person named who attends a sampler for the taking of a sample may be accompanied by his legal representative.

Sampling
procedure.

6. (1) A sampler shall comply with the provisions of this regulation, all of which shall be complied with in respect of one subject and the persons named in a direction before they are complied with in respect of any other subject and the persons named in another direction; so, however, that a report made in accordance with section 13(3) of the Act or any other evidence relating to the samples or the tests made on the samples shall not be challenged solely on the ground that a sampler has not acted in accordance with the provisions of this regulation.

(2) Before a sample is taken from any person who has attained the age of twelve months by the date of the direction, the sampler shall ensure that a photograph of that person is affixed to the direction form relating to that person (subject or person named, as the case may be) unless the direction form is accompanied by a certificate from a medical practitioner that the subject or the person named is suffering from a mental disorder and that a photograph of him cannot or should not be taken.

Form 1.
Part V.
First Schedule.

(3) Before a sample is taken from a subject, or from a person named, he, or where he is under a disability the person of full age accompanying him, shall complete the declaration in Part V of the direction form (that that subject or person named is the subject or the person named to whom the direction form relates and, where a photograph is affixed to the direction form, that the photograph is a photograph of that subject or person named) which shall be signed in the presence of and witnessed by the sampler.

(4) Where a subject or a person named is suffering from a mental disorder, the sampler shall not take a sample from him unless the sampler is in possession of a certificate from a medical practitioner certifying that the taking of a blood sample from the subject or the person named will not be prejudicial to his proper care and treatment.

(5) A sample shall not be taken from any subject or from a person named unless—

- (a) he or, where he is under a disability, the person having the care and control of him, has signed a statement on the direction form that he consents to the sample being taken; or
- (b) where he is under a disability and is not accompanied by the person having the care and control of him, the sampler is in possession of a statement in writing, purporting to be signed by that person that he consents to the sample being taken.

(6) The sampler shall affix to the direction form any statement referred to in subregulation (5)(b).

(7) If a subject or a person named, or where he is under a disability, the person having the care and control of him, does not consent to the taking of a sample, he may record on the direction form his reasons for withholding his consent.

(8) When the sampler has taken a sample he shall place it in a suitable container and shall affix to the container a label giving the full name, age and sex of the subject or the person named from whom it was taken and the label shall be signed by the sampler and by that subject or person named or, if he is under a disability, the person accompanying him.

(9) The sampler shall state in Part VII of the direction form that he has taken the sample and the date on which he did so.

Form 1.
Part VII.
First Schedule.

7. (1) When a sampler has taken samples, he shall, where he is not himself the tester, pack the containers together with the relevant direction forms and shall despatch them forthwith to the tester by registered post or shall deliver them or cause them to be

Despatch of
samples to
tester.

delivered to the tester by some person, other than a subject or a person named or a person who has accompanied a subject or a person named to the sampler.

(2) If at any time a sampler despatches to a tester samples from some only of a subject and the persons named and has not previously despatched samples taken from the subject or other persons named, he shall inform the tester whether he is expecting to take any samples from the subject and the other persons named and, if so, from whom and on what date.

Where sampler is unable to take samples.

8. (1) Where a sampler is unable himself to take samples from a subject and all persons named he may request another sampler to take the samples which he is unable to take.

(2) The sampler shall record the nomination of the other sampler on the relevant direction forms and shall forward them to the sampler whom he has requested to take the samples in his place.

Testing of samples.

9. (1) Samples taken for the purpose of giving effect to a direction shall, so far as practicable, all be tested by the same tester.

(2) A tester shall not make tests on any samples for the purpose of a direction unless he will, in his opinion, be able to show from the results of those tests (whether alone or together with the results of tests on any samples which he has received and tested or expects to receive subsequently) that a person named is or is not excluded from being the father of a subject whose paternity is in dispute.

Report by tester.

Form 2.
First Schedule.

10. On completion of the tests in compliance with the direction, the tester shall forward to the Court a report in the form set out as Form 2 in the First Schedule, together with the appropriate direction forms.

Where tests are not made.

11. If at any time it appears to a tester that he will be unable to make tests in accordance with the direction, he shall inform the Court, giving his reasons, and shall return the direction forms in his possession to the Court.

Prescribed fees.
Second
Schedule.

12. The fees specified in the Second Schedule are hereby prescribed for the purposes of the Act and samplers and testers shall be paid the fees so specified and prescribed.

FIRST SCHEDULE

FORM 1

Regulations 2(1)
and 10.

DIRECTION FORM

STATUS OF CHILDREN ACT, CH. 46:07

.....

v

Insert title of
proceedings.

.....

Reference No. of direction
Full name and date of birth of person to be tested to whom this form
relates

PART I

NOTIFICATION OF DIRECTION

The (name and address of Court)
on day of 20.....
directed that blood tests be carried out in respect of the persons whose names
are set out below for the purpose of ascertaining the paternity of
..... (name of person whose paternity is in dispute)
and that blood samples be taken from the person named below on or before
the..... day of20.....

*The name of the person appearing to the Court to have the care and
control of the person to whom this form relates who is under 16*/suffering
from a mental disorder within the meaning of the Mental Health Act,
Ch. 28:02 and is incapable of understanding the nature and purpose of
blood tests, is

*Delete as
appropriate.

..... (Signed)
Proper Officer of the Court

Name	Address	Age
.....
.....
.....
.....
.....

PART II

REQUEST TO SAMPLER TO TAKE SAMPLE

To (name and address of sampler).

You are hereby requested to take a blood sample from
 (name of person to whom form relates).

You are further requested to send the sample taken to
 (name and address of tester) (or the tester by
 whom you have arranged for tests to be made).

Delete if
 sampler is
 also tester.

To be
 completed
 where all the
 samples from
 the parties
 named in
 Part I are
 not to be
 taken by
 the same
 sampler.

Other samples will be taken as follows:

<i>Name of person from whom sample will be taken</i>	<i>Name, address and telephone number of sampler</i>
.....
.....
.....
.....

..... (Signed)

For use
 where sampler
 named above
 nominates
 another
 sampler.

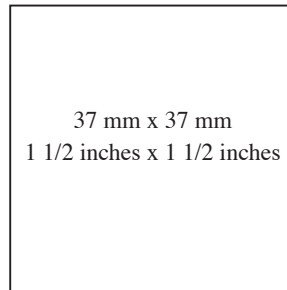
Being unable to comply with the request set out above, I have
 nominated.....(name and address of
 nominee) to take the sample.

..... (Signed)

PART III

PHOTOGRAPH

Below is a photograph of the person to whom this form relates, being a person who has attained the age of twelve months.



PART IV

(To be completed by sampler)

I have questioned*..... and it appears that he/
she/the party to whom this form relates—

has/has not† been transfused with blood in the last three months;
†has not been injected with a blood product or plasma substitute;
†has been injected with a blood product/blood plasma† on or
about
and that the value of any tests will thereby be/not be affected.†

*Insert name of person to whom form relates or, in the case of person under 16 or suffering from mental disability, person accompanying that person.

..... (Signed)
..... (Sampler)

†Delete as appropriate.

PART V

DECLARATION

(To be completed where the person to whom the form relates has attained the age of sixteen years and is not suffering from a mental disability).

I (insert full name and address of person to whom the form relates) declare that the photograph affixed to Part III of this form is a photograph of me and that I am a person in respect of whom the above-named Court gave a direction that blood tests be made. I hereby consent/do not consent* to the taking of a blood sample from me for the purpose of such tests.

*Delete as appropriate.

(I do not consent because)[†]

[†]To be deleted unless the person making the declaration withholds consent and wishes to record the reason for so doing.

I understand that it is a serious offence punishable by imprisonment to personate another person for the purpose of providing a blood sample.

Date..... (Signed)

The above was explained to the declarant who stated that he/she understood it and signed it in my presence.

Date..... (Signed)
(Sampler)

PART VI
DECLARATION

(To be completed where the person to whom the form relates has not attained the age of sixteen years or is suffering from a mental disability).

*Delete if not applicable.

I (full name and address of person accompanying the subject) (*being the person having the care and control of) (name of person to whom form relates) declare that the person whom I identify to (insert name of sampler)

[†]Delete as appropriate.

([†] and whose photograph is affixed to Part III of this form) is, to the best of my knowledge and belief.....

who is the son/daughter of(insert the name of mother of person identified).

I, being the person having the care and control of the person to whom this form relates, consent/do not consent[†] to the taking of a sample.

[‡]To be completed if the person making the declaration withholds consent and wishes to record the reason for so doing.

(I do not consent because—[‡])

I understand that it is a serious offence punishable by imprisonment to personate another person for the purpose of providing a blood sample or to proffer the wrong child for that purpose.

Date (Signed)

The above was explained to the declarant who stated that he/she understood it and signed it in my presence.

Date (Signed)
(Sampler)

PART VII

(To be completed by sampler)

I have today taken a blood sample from Delete as
to whom this form relates, whose (apparent) age is years. appropriate.
(I identified him/her from the photograph affixed to this form). (He/She
was (also) identified to me by)

Date (Signed)
..... (Sampler)

Observations

(Any observations by the sampler which may assist the tester shall be
inserted here).

PART VIII

(To be completed by sampler)

The person to whom this form relates did not attend on the date
originally arranged (or on a new date arranged by me).

His/Her reasons given to me for failing to attend were as follows: Delete if
inappropriate.

Date (Signed)
..... (Sampler)

PART IX

(To be completed by tester).

I have today received at (insert
place of receipt) the sample referred to in Part VII of this form.

(It was received by special delivery service).

(It was handed to me by) Delete as
appropriate.

Date..... (Signed)
..... (Tester)

PART II

BLOOD GROUPING REPORT

- (a) Complete as appropriate.
(b) Insert title of proceedings.

SECOND SCHEDULE

FEES

Regulation 12.

SAMPLERS

The fees which may be charged by a sampler in respect of one direction requesting him to take samples shall be as follows:

	\$
For making all necessary arrangements (whether or not samples are taken)	20.00
For making further arrangements (whether or not samples are taken) to give effect to a variation by the Court of a direction	20.00
For taking sample—	
from first subject	20.00
from each subject after the first	10.00
For taking second or subsequent samples from one or more subjects—	
if one such sample	20.00
if two such samples	30.00
if three or more such samples	50.00

TESTERS

The fees which may be charged by a tester in respect of tests for the purpose of giving effect to one direction shall be as follows:

	\$
For making a report in accordance with the direction and testing four or less samples	120.00
For testing each sample after the fourth covered by a report	40.00
For testing samples where no report is made—	
in respect of the first sample	80.00
in respect of each subsequent sample	40.00

LAWS OF TRINIDAD AND TOBAGO

MINISTRY OF LEGAL AFFAIRS

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Chap. 46:07

Status of Children

[Subsidiary]

91/1983.
[6 of 1993].

PRESCRIBED FEES REGULATIONS

made under section 18

Citation and
commencement.

1. These Regulations may be cited as the Prescribed Fees Regulations, and shall come into operation on Thursday the 9th day of June 1983.

Prescribed fees.

2. A fee of two dollars and fifty cents and a fee of twenty-five cents are hereby prescribed for the purposes of subsections (1) and (4) respectively of section 9 of the Act.

Fee for insertion
of father's name
on certificate.
[6 of 1993].

3. A fee of fifty dollars is hereby prescribed for the purposes of section 16A of the Act.

APPENDIX

(See “Note on Act 27 of 2000” at page 2).

The following amendments have been made to the Status of Children Act (Ch. 46:07) by Act No. 27 of 2000 (Deoxyribonucleic Acid (DNA) Identification Act, 2000).

B. Section 2 is amended by repealing subsection (2) and substituting the following subsection: The Status of Children Act, Ch. 46:07.

“(2) For the purpose of sections 13 to 17 inclusive—

‘tissue sample’ means a sample of blood, saliva, or hair taken from a person;

‘DNA forensic analysis’ means the analysis carried out by a tester at the Forensic Science Centre, or by any laboratory approved by the Minister, to determine the inheritable characteristics of the person from whom a tissue sample was taken and the comparison of the results of that tissue sample with the results of a tissue sample taken from another person, and includes any incidental tests associated with any of those analyses;

‘qualified person’ means a registered medical practitioner or a person registered under Part II or III of the Nurses and Midwives Registration Act acting under the supervision of a registered medical practitioner; Ch. 29:53.

‘tester’ means the Director, the Deputy Director, or a Scientific Officer attached to the Forensic Science Centre, or a suitably qualified person from any laboratory approved by the Minister.”

C. Section 13 is amended—

(a) by deleting the heading “Blood Tests” and substituting the heading “DNA Forensic Analysis”;

(b) by repealing subsection (1) and substituting the following subsection:

“(1) Where in any civil proceedings the question of whether a person is the parent of another person (hereinafter referred to as ‘the subject’) falls to be determined by a Court hearing the proceedings, the Court may, on an application by any party to the proceedings, give a direction for the use of DNA forensic analysis to ascertain whether such analysis shows that a party to the proceedings is or is not the parent of the subject, and for the taking, within a period to be specified in the direction, of a tissue sample from the subject and from any person alleged to be the parent of the subject, or from any, or any two, of those persons.”;

(c) by repealing subsection (3) and substituting the following subsection:

“(3) A tester shall make to the Court, by which the direction mentioned in subsection (1) was given, a DNA report in which he shall state—

- (a) the results of the DNA forensic analysis; and
- (b) whether the person to whom the report relates is or is not the parent of the subject,

and the report shall be received by the Court as evidence in the proceedings of the matters stated in it.”;

(d) in subsection (5) by deleting the words “tests taken” and “those tests” and substituting the words “DNA forensic analysis” and “such analysis” respectively;

(e) in subsection (6) by deleting the words “testing blood samples” and substituting the words “analysing tissue samples”; and

(f) by deleting the marginal note and substituting the following new marginal note:

“Power of Court to require use of DNA forensic analysis”.

D. Sections 14 to 16 are amended by deleting the words “blood sample” or “blood samples” wherever they appear and substituting the words “tissue sample” or “tissue samples”, as the case may be.

E. Section 14 is amended in subsection (4) by deleting the words “blood tests” and substituting the words “DNA forensic analysis”.

F. Section 16 is amended—

- (a) in subsection (1) by deleting the words “a test” and substituting the words “DNA forensic analysis”; and
- (b) in the marginal note by deleting the words “*re* blood tests” and substituting the words “*re* DNA forensic analysis”.

G. Delete section 17 and substitute the following section:

“Regulations. 17. The Minister may make Regulations to give effect to any directions under section 13 and, in particular, any such Regulations may—

- (a) provide that tissue samples shall not be taken except by a qualified person;

-
- (b) regulate the taking, identification and transport of tissue samples;
 - (c) require the production at the time when a tissue 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 tissue sample is to be taken or a qualified person to state in writing whether the person from whom the sample is to be taken has, during such period as may be specified in the Regulations, suffered from any such illness, as may be so specified, or has received a blood transfusion of blood;
 - (e) provide that DNA forensic analysis shall not be carried out except at such other laboratories, apart from the Forensic Science Centre, as may be approved by the Minister;
 - (f) regulate the charges that may be made for the taking and analysing of tissue samples and for the making of a DNA report to a Court under section 13;
 - (g) make provision for securing that so far as practicable tissue samples to be analysed for the purpose of giving effect to a direction under section 13 are analysed by the same person;
 - (h) prescribe the form of the DNA report to be made to a Court under section 13.”
-