

## **Act No. 7 of 8 April 1981 relating to Children and Parents (The Children Act)**

### **CHAPTER 1 SOME PROVISIONS IN CONNECTION WITH CHILDBIRTH**

#### **Section 1 Notification of childbirth**

When a child is born the doctor or the midwife shall notify the national population register of the birth. The notification shall state the identity of the father of the child in accordance with sections 3 or 4, or of the person whom the mother has named as the father of the child in the event that paternity has not yet been established. The notification shall also state whether the parents are cohabiting. Furthermore, the notification shall contain such information as the Ministry prescribes.

When the child is born without a doctor or a midwife in attendance, the mother shall herself notify the national population register of the birth within one month. If she gives birth to the child while she is temporarily staying abroad, she shall notify the national population register within one month of the child's arrival in Norway.

Notification shall also be given when the child is still-born.

In cases where paternity has not yet been established or where the parents are not cohabiting, the notification of birth shall be sent both to the national population register and to the maintenance enforcement officer.

#### **Section 1 a Right of the mother to have someone present at the birth**

The mother has the right to have the father of the child or another person who is close to her present at the birth, unless it is inadvisable on medical grounds.

### **CHAPTER 1 A IDENTITY OF THE MOTHER OF THE CHILD**

#### **Section 2 Identity of the mother of the child**

The woman who has given birth to the child shall be regarded as the mother of the child.

An agreement to give birth to a child for another woman is not binding.

### **CHAPTER 2 IDENTITY OF THE FATHER OF THE CHILD**

#### **Section 3 Paternity following from marriage**

The man to whom the mother is married at the time of the child's birth shall be regarded as the father of the child. However, this shall not apply if the spouses were separated by licence or judgment at the time of the birth.

If the mother is a widow, her late husband shall be regarded as the father if it is possible that she conceived the child before he died.

#### **Section 4 Acknowledgement of paternity**

When paternity is not established pursuant to the provisions of section 3, the father may acknowledge paternity during the pregnancy or after the child is born.

The father shall acknowledge paternity in writing either in the notification of birth or by appearing in person before

- a) the national population register,
- b) the maintenance enforcement officer, the county office of the National Insurance Service or a judge,
- c) a Norwegian diplomatic or consular official, if the father is abroad,
- d) the shipmaster, if the father is on board a Norwegian ship in foreign waters, or
- e) a foreign government authority, if the King has so determined.

Acknowledgement pursuant to this paragraph is only valid if the mother has accepted it in writing, or when the acknowledgement is given by the person whom the mother has named as the father.

Paternity may also be acknowledged by endorsing a paternity writ.

If the person acknowledging paternity is under 18 years of age, those who have parental responsibility for him must also sign the acknowledgement.

#### **Section 5 Responsibility of the authorities to establish paternity**

If the child's father is not identified in accordance with the provisions of sections 3 and 4, the authorities shall be responsible for establishing the identity of the father, cf. chapters 3 and 4.

#### **Section 6 Change of paternity pursuant to sections 3 and 4 in a court of justice**

The child may without exception institute paternity proceedings in a court of justice following marriage or acknowledgement. If the child is a minor, proceedings may be instituted by an appointed guardian. If the child has reached the age of 15, the guardian cannot institute proceedings without the child's consent. If special grounds so indicate, proceedings may be instituted by the county office of the National Insurance Service.

Either of the parents may institute paternity proceedings if the parent concerned presents information indicating that another person may be the father of the child. Proceedings must be instituted within one year after the parent concerned learned of the information, subject, however, to this time-limit being calculated at the earliest from the time the child was born. The court will decide by order whether the conditions for instituting proceedings are fulfilled, and may by order make an exception to the one-year time-limit if special grounds so indicate.

Any person who believes that he is the father of the child may institute paternity proceedings until the child reaches the age of three, if he presents information indicating that he may be the father. The court may by order make an exception to the three-year time-limit if special grounds so indicate. The provisions of the second paragraph, second and third sentences, shall apply correspondingly.

**Section 7 Change of paternity pursuant to sections 3 and 4 if another man acknowledges paternity**

Paternity pursuant to section 3 or 4 may be changed if another man acknowledges paternity pursuant to section 4, if the acknowledgement is accepted in writing by the mother and the person who has been regarded as the father. However, such acknowledgement is only valid if the county office of the National Insurance Service considers it probable that the other man is the father of the child.

**Section 8 Paternity cannot be tried in other cases**

Courts of justice or administrative agencies may not try the issue of paternity in cases other than those mentioned in sections 6 and 7. Courts of justice or administrative agencies may not in other cases presume that a man is the father unless this has been established pursuant to this Act.

**Section 9 Conditions for pronouncing judgment in paternity cases**

If a man is identified as the father on the basis of a DNA analysis, he shall be adjudged to be the father. If no DNA analysis is available, or there is reason to believe that the DNA analysis is erroneous, or if close relatives also come forward as possible fathers, the provisions of the second and third paragraphs apply.

If a man has had sexual intercourse with the mother during the period in which she may have conceived the child, he shall be adjudged to be the father, unless it is improbable that he is the father.

If the mother has had sexual intercourse with several men during the period in which she may have conceived the child, judgment on paternity shall nevertheless only be pronounced when it is substantially more probable that one of them is the father than any of the others.

If the mother has undergone artificial insemination, and the husband has consented to the insemination, he shall be adjudged to be the father, unless it is improbable that the child was conceived as a result of the insemination.

The sperm donor may not be adjudged to be the father. However, this does not apply if the insemination was performed using the sperm of the husband or cohabitant.

**CHAPTER 3 DUTIES OF THE MAINTENANCE ENFORCEMENT OFFICER AND THE COUNTY GOVERNOR IN PATERNITY CASES**

**Section 10 Duties of the maintenance enforcement officer**

When the maintenance enforcement officer receives notification of a birth pursuant to section 1, fourth paragraph, because paternity has not been established, he shall report this to the putative father. If the man does not acknowledge paternity pursuant to section 4, the maintenance enforcement officer shall, if possible, get him to express his opinion on the question of paternity. If paternity is acknowledged, the maintenance enforcement officer shall notify the national population register accordingly. Otherwise, he shall refer the case to the county office of the National Insurance Service without undue delay.

The maintenance enforcement officer shall on his own initiative apprise both the mother and the putative father of their financial and other rights and duties with regard to the child. If they have not made an agreement regarding maintenance contributions pursuant to section 54, first paragraph, the maintenance enforcement officer shall obtain information about their work, education, income, assets and other factors that may be pertinent when fixing the maintenance contribution pursuant to section 54, fifth paragraph. In order to determine the contribution the maintenance enforcement officer may, notwithstanding the duty of confidentiality, demand any necessary information from employers, the Directorate for Seamen, the tax authorities and the national insurance administration and from insurance companies, banks and others who take charge of or manage assets.

Unless otherwise determined by the Ministry, the local national insurance office is the maintenance enforcement agency.

### **Section 11 Paternity writ to be issued by the county office of the National Insurance Service**

The county office of the National Insurance Service may require that the mother and the man or men who may be the father of the child make a statement, and may order a blood test and a DNA test to be performed on them and the child. In special cases, the person who may be the father may be ordered to submit to a blood test and DNA test before the child is born.

The Ministry may by regulation lay down supplementary rules concerning blood tests and DNA testing.

The doctor or midwife who attended the mother during her pregnancy is required, notwithstanding the duty of confidentiality, to give the county office of the National Insurance Service such information about the pregnancy and paternity as the Ministry has prescribed by regulation.

If the putative father has not acknowledged paternity, but the county office of the National Insurance Service finds it probable that he is the father, a paternity writ shall be issued against him. The county office may issue a paternity writ against another man who the office believes is most probably the father. The county office shall not issue a writ if the person who is probably the father is dead or insane. If he is living abroad, the county office may refrain from issuing a writ.

If the child dies shortly after birth, the county office may refrain from issuing a writ provided that the mother concurs. The same applies if there are other strong reasons for dropping the case.

If the county office drops the case, the child, the mother or the man who believes that he is the father of the child may themselves institute paternity proceedings in a court of law.

### **Section 12 Subject-matter of the writ**

In the writ it shall be stated that the person concerned will be regarded as the father of the child if he acknowledges paternity, cf. section 4, and that the case will be referred to a court of law for decision if he does not acknowledge paternity within one month after he has received the writ.

The writ shall state what the legal consequences will be for the person concerned and the child if he is regarded as the father.

The writ shall be sent to the putative father by registered mail.

**Section 13 When the case is brought before a court, etc.**

The county office of the National Insurance Service shall file a writ of summons with the district or the city court for decision pursuant to Chapter 4 if:

- a) a paternity writ is not issued, and this is not authorised by section 11, fourth paragraph,
- b) it has not been possible to transmit the writ,
- c) the putative father has not acknowledged paternity within one month after receiving the writ.

When paternity is acknowledged pursuant to section 4, the case shall in no event be referred to the court. The mother shall be notified of the acknowledgement.

If legal proceedings end without paternity being established, and paternity is not established later, the county office of the National Insurance Service may issue a new paternity writ and refer the case to the court if new information emerges which indicates that the father may be a man who has not previously been a party to the case.

**CHAPTER 4 PROCEDURE IN PATERNITY CASES**

**Section 14 Relationship to the general rules of procedure**

The provisions of this Chapter, the Courts of Justice Act and the Civil Procedure Act shall apply to paternity cases.

**Section 15 Which court deals with the case**

Proceedings shall be instituted in the child's home venue. If the child is dead or lives outside the realm, proceedings shall be instituted in the mother's home venue. If she too is dead or lives outside the realm, proceedings shall be instituted in the putative father's home venue.

**Section 16 What issues may be addressed in a paternity case**

In a paternity case other disputes may only be brought up if they arise as a result of the paternity or the paternity case.

**Section 17 The parties to the case**

In paternity cases the child, the mother and any man who is regarded as or who may be the father, are parties to the case.

If a man who may be the father of the child dies, his estate or his heirs shall be made a party to the case.

If information emerges which indicates that someone else may be the father, the court shall by writ make him a defendant.

**Section 18 Substitute guardian for the child**

If a guardian has not been appointed for the child, the court shall ensure that a substitute guardian is appointed if the mother does not reveal the identity of the father, or if

information is available indicating that the father may be someone other than the man the mother has named.

### **Section 19 Service of summons**

When summoning a person pursuant to section 181 of the Courts of Justice Act, the names of other parties shall only be made public when the court so decides for special reasons.

A party with a known place of residence in the realm may be summoned to the preparatory proceedings by registered mail.

### **Section 20 Extended obligation to appear for parties and witnesses**

The court may of its own motion extend the obligation to appear for parties and witnesses beyond the limits applicable pursuant to section 199 of the Civil Procedure Act.

### **Section 21 Evidence given by parties and witnesses**

Both the mother and the person who may be the father of the child are under obligation to give evidence in accordance with the rules relating to witnesses and subject to the same responsibility as witnesses.

The court decides whether one party shall be allowed to listen while another party gives evidence during the preparatory proceedings.

In paternity cases no one may refuse to reply to a question on the grounds that the reply may lead to a loss of public esteem for the person concerned, cf. section 208 of the Civil Procedure Act.

When a witness has given evidence during the preparatory proceedings, it is not necessary to summon the said witness to the main hearing if the court considers a new examination to be unnecessary and the parties do not request a re-examination.

### **Section 22 Evidence concerning sexual relations**

In paternity cases no questions may be asked nor evidence given concerning sexual relations of any of the parties except for the period during which the mother may have conceived the child. Nevertheless, the court may by order allow such evidence if it finds that the evidence has a direct effect on the decision in the case.

### **Section 23 Absence**

Proceedings shall not be stayed if any or all of the parties fail to appear in court.

Evidence given during the preparatory proceedings in the case may be read aloud during the main hearing if the person concerned fails to appear, unless special reasons indicate the contrary.

### **Section 24 Blood tests and investigation of inherited traits**

The court may decide to investigate blood types or other inherited traits of the mother, the child and each man who is a party to the case. If there is reason to believe that a man who is not a party has had sexual intercourse with the mother at the time she may have conceived the child, the court may decide that such investigation shall also apply to him once he has been given the opportunity to express his opinion. Public medical officers are under obligation to take the necessary blood samples.

If a man who may be the father of the child is dead or unavailable for other reasons, the court may as evidence in a paternity case procure and make use of biological material or samples previously taken from him. The Ministry may by regulation issue supplementary rules concerning the procurement and use of such material.

If anyone fails to comply with an order pursuant to the first paragraph or section 11, first paragraph, to appear in person or with the child for whom the person concerned is responsible, to take a blood test or undergo other investigation of inherited traits, the court may by order impose a coercive fine for every day that passes until the order is complied with. Such coercive fine shall be recovered by the agency for the recovery of maintenance contributions under the rules relating to the recovery of maintenance contributions. Otherwise, section 13-8 of the Enforcement Act shall apply correspondingly. Instead of a coercive fine the court may decide that the person concerned shall be detained by the police and taken to a doctor for a blood test.

### **Section 25 Judgment without a main hearing**

The court may pronounce judgment in a paternity case without a main hearing when a DNA test either identifies a man as the father or shows that he cannot be the father of the child, subject, however, to the parties being given an opportunity to state their opinion as to whether the conditions for pronouncing judgment without a main hearing are fulfilled.

With the consent of the mother of the child, the court may absolve all the men who are parties to the case if the court, after the examination of blood samples and testimony from the parties and witnesses are concluded, finds that it is clearly not possible to render a decision as to paternity.

### **Section 26 Dismissal of the case**

The court may by order dismiss the case when

- a) a man acknowledges pursuant to section 4 that he is the father of the child, or
- b) the putative father lives abroad and it is impossible to obtain sufficient information to establish paternity.

If a man has acknowledged paternity by endorsing a paternity writ, and the mother has not named him as the father, the case may be dismissed pursuant to the first paragraph, *litra a*, only if the mother agrees.

### **Section 27 Extended legal force**

A final and binding judgment in a paternity case shall apply in respect of and against everyone and shall form the basis in all circumstances where the paternity is relevant.

### **Section 28 Special rules concerning review**

All parties to the case in the court of first instance shall also be parties to the appeal. Anyone who is absolved pursuant to section 25, first paragraph, is nevertheless only a party if the court or any of the other parties bring him into the case. If information emerges in the appeal proceedings to the effect that another person may be the father, the court shall either make him a party by writ, or annul the judgment and refer the case to the district or the city court for rehearing.

A person who has been adjudged to be father of the child may, although he has failed to appear in court and has been informed of the judgment pursuant to section 181 of the

Courts of Justice Act, apply for a reopening of the case if he produces information which gives cause for serious doubt as to whether the question of paternity has been correctly decided in the judgment.

**Section 29 Costs of the case**

The State bears the costs incurred by the court in the case, including expenditure on obtaining information which the court considers necessary.

**CHAPTER 5 PARENTAL RESPONSIBILITY AND WHERE THE CHILD SHALL LIVE PERMANENTLY**

**Section 30 Meaning of parental responsibility**

The child is entitled to care and consideration from those who have parental responsibility. These persons have the right and the duty to make decisions for the child in personal matters within the limits set by sections 31 and 33. Parental responsibility shall be exercised on the basis of the child's interests and needs.

Those who have parental responsibility are under obligation to bring up and maintain the child properly. They shall ensure that the child receives an education according to his or her ability and aptitude.

The child must not be subjected to violence or in any other way be treated so as to harm or endanger his or her mental or physical health.

As regards the right to make decisions on behalf of the child in financial matters, the provisions of Act No. 3 of 22 April 1927 on Guardianship shall apply.

**Section 31 The child's right of co-determination**

As the child develops and matures, the parents shall listen to the child's opinion before making decisions for the child on personal matters. They shall pay due regard to the opinion of the child. The same applies to others with whom the child lives or who are involved with the child.

When the child has reached the age of 12, he or she shall be allowed to state his or her opinion before decisions are made on personal matters on his or her behalf, including the question of which of the parents he or she wishes to live with. Great importance shall be attached to the child's wishes.

**Section 32 Education, membership of associations**

Children who have reached the age of 15 shall themselves decide the question of choice of education and of applying for membership of or resigning from associations.

**Section 33 The child's right of self-determination**

Parents shall steadily extend the child's right to make his or her own decisions as he or she gets older and until he or she comes of age.

### **Section 34 Parental responsibility if the parents are or have been married**

Parents who are married shall have joint parental responsibility for children they have in common.

Parents who obtain a separation or divorce may agree that they shall have joint parental responsibility or that one of them shall have sole responsibility. Until an agreement or a decision pursuant to the third paragraph or to section 38 is made, they shall have joint parental responsibility.

If the parents disagree as to who shall have parental responsibility, either of them may institute legal proceedings on this issue. If they agree, the case may instead be referred to the county governor. If the child has reached the age of 15, the question of who shall have parental responsibility and with whom the child shall live may be referred to the county governor even if only one of the parents so requests. The decision shall first and foremost be taken on the basis of what is best for the child. The parties shall attend conciliation proceedings before the case is brought before the court or the county governor. The Ministry will prescribe further regulations for such conciliation proceedings. Sections 26 and 26 a of the Marriage Act shall apply correspondingly.

### **Section 35 Parental responsibility if the parents are not married**

When the parents are not married the mother has sole parental responsibility.

Nevertheless, the parents may by agreement notify the national population register that they will have joint parental responsibility or that the father shall have sole parental responsibility.

If the parents disagree on parental responsibility, or on whom the child shall live with permanently, either of them may institute proceedings pursuant to the provisions of section 34, third paragraph.

If unmarried parents have joint parental responsibility but the child lives permanently with only one of them, the provisions of section 35 b shall apply.

#### **Section 35 a Where the child shall live permanently**

Parents may institute legal proceedings on the issue of where the child shall live permanently. Section 34, third paragraph, shall apply correspondingly.

If the parents concur, they may enter into an agreement that the child shall live permanently with both of them, even if they do not live together. If the parents do not concur, the court or the county governor must decide that the child shall have one permanent place of residence.

#### **Section 35 b Decisions that may be taken by the person with whom the child lives permanently**

If the parents have joint parental responsibility, but the child lives permanently with only one of them, the other parent may not object to the parent with whom the child lives making decisions concerning important aspects of the child's care, such as the question of whether the child shall attend a day-care centre, where in Norway the child shall live and other major decisions concerning everyday life.

### **Section 36 Parental responsibility after the death of one parent**

If one of the parents sharing parental responsibility dies, the surviving parent acquires sole parental responsibility.

If the child lives with both parents and one of them dies, the surviving parent acquires sole parental responsibility, even if only the deceased parent had parental responsibility.

If the death means that there no longer is anyone with parental responsibility for a child, the district sheriff (*lensmann*) or the probate court shall be informed of this in the notification of death.

If the parent who acquires parental responsibility pursuant to the first paragraph did not live with the child, or the parent who acquires parental responsibility pursuant to the second paragraph did not have parental responsibility when the other parent died, other persons may within six months of the death institute legal proceedings to claim parental responsibility and the right to live permanently with the child. The court may make an interim decision pursuant to the provisions of section 38.

If no one has parental responsibility for a child any longer, cf. the third paragraph, the persons desiring parental responsibility shall apply to the district or the city court in the locality where the child lives.

The court may allow one person to have sole parental responsibility or allow a man and woman who are cohabitants to share it. If any person other than the surviving father or mother is given parental responsibility, the court shall also decide whether the father or mother shall continue to share in the parental responsibility. If the parents have stated in writing whom they wish to have parental responsibility after their deaths, importance should be attached to their wish.

The provisions of this chapter and of chapter 6 shall apply to the person or persons given parental responsibility.

### **Section 37 Procedure for dealing with claims for parental responsibility pursuant to section 36**

If no one has parental responsibility for the child, and only one claim for parental responsibility is received, the court shall grant the claim except when there is a risk that the child will not be given proper care and upbringing, or that the child will suffer harm in any other way. Rejection of a claim for parental responsibility shall be done by court order and may be appealed.

If one or more claims for parental responsibility are received, the court shall decide the question by order, which may be appealed. Normally, the court shall summon the parties to an oral hearing before a decision is taken. The decision shall be based on what is best for the child. Importance shall be attached to whether the surviving parent wishes to have parental responsibility. No one may be given parental responsibility unless the conditions of the first paragraph are fulfilled.

Before the court renders a decision in the case, the relatives closest to the child or the persons with whom the child is living shall be allowed to express their opinion. If the child has reached the age of 12, the court shall hear his or her opinion. The court may disregard the right to express opinions pursuant to this paragraph when special grounds render such opinions unnecessary.

The court may, as a condition for a decision, stipulate that the child may not, for a specified period, be taken away from the home where the child is living if the move may have a detrimental effect on the child, and there are no reasonable grounds for moving.

If no one has come forward or the court rejects all claims for parental responsibility, it shall notify the child welfare service to this effect. The child welfare service shall place the child pursuant to the provisions of the Act on Child Welfare Services. Section 4-14 and section 4-15, first paragraph, section 4-16, section 4-17, section 4-18, first paragraph and section 4-20 shall apply correspondingly.

Decisions pursuant to this section may again be referred to the court by the surviving parent and amended if special grounds so indicate. Section 39, third paragraph, shall apply correspondingly.

### **Section 38 Interim decisions regarding parental responsibility or with whom the child shall live**

In legal proceedings concerning parental responsibility the court, pursuant to a claim by one of the parties, may by order determine which of the parties shall have parental responsibility until a final and binding judgment is pronounced. The court may render an interim decision pending the final decision in the case.

The provision in the first paragraph shall apply correspondingly to cases concerning whom the child shall live with.

The court may also render an interim decision before proceedings are instituted if there are special grounds for this. At the same time the court may prohibit the other parent from entering the property or the dwelling where the child lives. If an immediate decision is not necessary the court shall, as far as possible, allow the other party an opportunity to express an opinion. The judge shall in the order set a time-limit for instituting proceedings. If the time-limit expires without extension, any decisions taken cease to have effect.

### **Section 39 Alteration of agreements or decisions regarding parental responsibility etc.**

Parents may alter an agreement or a decision regarding parental responsibility or with whom the child shall live.

If they do not agree, either of them may, pursuant to section 34, third paragraph, institute proceedings in a court or have the case referred to the county governor. Judicial or administrative decisions and settlements in court may nevertheless only be altered if special reasons so indicate. Interim decisions pursuant to section 38 may be altered on the same conditions by the court conducting the main hearing.

If it is obvious that no such special reasons as are mentioned in the second paragraph exist, the court may decide the case without a main hearing.

### **Section 40 Where decisions shall be taken**

Decisions as to parental responsibility or with whom the child shall live shall be taken by the court or the county governor at the child's home venue at the time when proceedings were instituted.

### **Section 41 Use of experts, the child welfare service or the social services**

In matters where this is necessary, experts, the child welfare service or the social services should express their opinions before decisions are taken.

### **Section 41 a Registration of parental responsibility**

Agreements or decisions concerning parental responsibility shall be reported to the national population register. Agreements concerning parental responsibility which are not reported to the national population register are not valid.

### **Section 42 Enforcement**

Chapter 13 of the Enforcement Act applies to the enforcement of decisions on parental responsibility or with whom the child shall live. The enforcement officer shall nevertheless collect coercive fines. Collection shall only take place at the request of the person entitled thereto. A decision by the county governor or the Ministry constitutes special grounds for enforcement. An interim decision pursuant to section 38 is enforceable even if the decision is not finally binding.

### **Section 43 Moving abroad with the child**

If one of the parents has sole parental responsibility, the other parent may not object to the child moving abroad. If the parents have joint parental responsibility, both of them must consent to the child moving abroad.

If the parents disagree as to who shall have parental responsibility or with whom the child shall live permanently, the child must not move abroad until the matter has been decided.

### **Section 43 a Travel abroad with the child**

A person who has joint parental responsibility or sole parental responsibility may take the child on short trips abroad. If the parents have joint parental responsibility, the court may by order prohibit travel abroad with the child if it is uncertain that the child will return. The prohibition may apply to a single trip or in general, and may also be imposed in a case concerning parental responsibility, with whom the child shall live or right of access. The court may make an interim decision pending a final decision of the case.

In cases where a prohibition against travel has been imposed, the child's name shall be deleted from the passport of the parent who wishes to leave the country, or the child's passport shall be revoked, or the child may be placed in the care of other persons in a proper manner until the case has been decided.

If there is a risk that the child will not return, the police may impose a temporary prohibition against leaving the country until the case can be dealt with by the court. The second paragraph shall apply correspondingly.

The parent who does not have parental responsibility may not travel abroad with the child without the consent of the parent who has parental responsibility. However, at the request of the parent who wishes to travel, the court may consent to the child travelling abroad if it is obvious that the child will return. The first paragraph, third and fourth sentences, shall apply correspondingly to such consent.

## **CHAPTER 6 RIGHT OF ACCESS, ETC.**

### **Section 44 The child's right of access to the parents**

The child has right of access to both parents, even if they live apart. The parents have mutual responsibility for implementing the right of access.

The child is entitled to the care and consideration of the parent who is with the child. The parent who is with the child may make decisions concerning the care of the child while they are together.

### **Section 44 a Extent of the right of access, etc.**

The parent with whom the child does not live has right of access to the child unless otherwise agreed or determined. The extent of the right of access should be further agreed.

If "ordinary right of access" is agreed or determined, this entitles the parent to spend one afternoon a week, every other weekend, two weeks of the summer holiday, and Christmas or Easter with the child.

Parents may institute court proceedings concerning the extent of the right of access. If they agree, the case may instead be submitted to the county governor. If the child has reached the age of 15, cases concerning right of access may be submitted to the county governor even if only one of the parents so requests. Decisions shall first and foremost be based on what is best for the child. Conditions for implementing the right of access may be imposed. The parties shall attend conciliation proceedings before the case is brought before a court or the county governor. The Ministry will prescribe further regulations concerning such conciliation proceedings. Sections 26 and 26 a of the Marriage Act shall apply correspondingly.

The other parent shall be notified a reasonable period of time in advance if access cannot take place as determined, or if the time for the access must be agreed more specifically.

If the parent who has parental responsibility or with whom the child lives prevents a right of access from being exercised, the parent who has right of access may demand a new decision as to who is to have parental responsibility or with whom the child shall live, cf. section 39, second paragraph.

### **Section 44 b Travel costs in connection with access**

The parent who is to have access to the child must bear the travel costs related to such access. If special grounds make it reasonable to do so, the court may determine that the travel costs shall be divided, or that the other parent shall bear all the travel costs. If the parents so agree, the case may instead be submitted to the county governor. If the child has reached the age of 15, cases concerning travel costs may be submitted to the county governor even if only one of the parents so requests.

### **Section 45 Right of access for persons other than the parents**

When one or both of the parents are deceased, relatives of the child or other persons who are close to the child may request the court to establish whether they shall have right of access to the child, and the extent of such access. When the parties agree, the case may instead be submitted to the county governor. The decision shall be based on what is best for the child.

In cases concerning right of access between the parents pursuant to section 44 a, a parent who has been denied access may demand that the decision-making body determines whether his or her parents shall have right of access to the child and the extent of such access.

The first paragraph, third sentence, shall apply correspondingly. Access for grandparents may only be determined on condition that the person who is denied access is not allowed to be with the child.

#### **Section 46 Interim decisions concerning right of access**

In legal proceedings concerning parental responsibility, with whom the child shall live or right of access, the court may, at the request of one of the parties, decide by order to grant interim right of access. Such a decision may apply generally until a final and binding judgment has been rendered, or for a specified period.

Section 38, last paragraph, shall correspondingly.

#### **Section 47 Procedure in cases concerning right of access**

The question of right of access may be decided in proceedings concerning parental responsibility or with whom the child shall live, or be dealt with in separate proceedings.

The provisions of sections 40 and 41 shall apply correspondingly in proceedings concerning right of access.

The provisions of section 39 shall apply correspondingly to alterations to agreements or decisions concerning right of access.

#### **Section 48 Enforcement**

A final decision regarding right of access may be enforced by coercive fine pursuant to chapter 13 of the Enforcement Act. However, the enforcement officer shall collect the coercive fine. Collection shall only take place at the request of the person entitled thereto. For a specified period the court of enforcement may lay down a fixed coercive fine which shall apply each time the right of access is not respected. A decision by the county governor or the Ministry constitutes special grounds for enforcement. Interim decisions pursuant to section 46 are enforceable even if the decision is not final and binding.

#### **Section 49 Right to be heard before a decision is taken about the future of the child**

The person who has right of access to the child shall, as far as possible, be allowed to express an opinion before the parent who has parental responsibility takes decisions that will render it impossible or considerably more difficult to exercise right of access to the child.

#### **Section 50 Right to information about the child**

If one of the parents has sole parental responsibility, that parent shall give the other parent information about the child when so requested. The other parent also has the right to obtain information about the child from day-care centres, schools, the health and social welfare services and the police, if the duty of confidentiality does not apply in relation to the parents. Disclosure of such information may be refused if it may be detrimental to the child.

A rejection of the request for information pursuant to the first paragraph, second sentence, may be appealed to the county governor. The provisions of chapter VI of the Public Administration Act shall apply insofar as they are appropriate, even if the rejection is made by a private person..

In special circumstances the county governor may decide that the parent who does not have parental responsibility shall lose the right to information under this section.

## **CHAPTER 7 DUTY TO REAR THE CHILD**

### **Section 51 Duty of the parents to rear the child**

The parents shall bear the expenses of maintaining and educating the child according to the child's ability and aptitude and the financial circumstances of the parents, when the child itself does not have the requisite means. Both parents have a mutual obligation to contribute what is necessary, each according to his or her ability.

The provisions regarding the parent's duty to rear the child pursuant to this chapter apply correspondingly to other persons who have been given parental responsibility after both parents are deceased.

### **Section 52 Maintenance contributions**

Where one or both of the parents do not live with the child, the parent concerned shall pay fixed contributions to maintenance and education. Parents who live with the child may also be required to pay contributions if they fail to fulfil their obligation to maintain the child pursuant to section 51. No one may renounce the rights the child has pursuant to this paragraph.

For special expenses incurred before the child attains the age of 18, the parents may be ordered to pay special contributions. A claim for special contributions must be filed within one year after the special expenses were incurred. The Ministry may by regulation lay down supplementary rules on special contributions.

It is the child who has the right to the contribution. Unless otherwise determined, it shall be paid monthly in advance to the parent with whom the child lives permanently. The contribution shall be paid as from the calendar month in which the claim arises until the end of the calendar month when the preconditions for the contribution no longer apply.

### **Section 53 Duration of obligation to rear the child**

The obligation of the parents pursuant to sections 51 and 52 lasts until the child reaches the age of 18 unless otherwise agreed or determined in pursuance of this section.

If the child, after having reached the age of 18, wishes to continue with what must be regarded as a normal education, he or she is entitled to financial support for the duration of such education. Nevertheless, this does not apply if in view of the financial resources of the parents and other circumstances it would be unreasonable to impose an obligation to pay contributions. A time limit shall be set in respect of claims for contributions pursuant to this provision.

Parents may also be ordered to pay contributions towards further education if this is reasonable considering their financial resources, the interests and aptitudes of the child, the opportunities of acquiring funds for further education from other sources, and other circumstances. A time-limit shall be set in respect of claims for such contributions.

### **Section 54 How maintenance contributions are determined**

The parents may make an agreement regarding maintenance contributions to the child. If they wish to agree on an amount that is less than the minimum sum stipulated pursuant to section 5, first paragraph, of Act No. 2 of 17 February 1989 on Advance Payment of

Maintenance Contributions, they must not agree on a contribution that is less than the rates that have been determined by the Ministry pursuant to the seventh paragraph.

If they fail to agree, each of them may request that the maintenance enforcement officer determine the contribution. They may do this even if they originally reached agreement on the contribution.

The question shall nevertheless be settled by the courts

- a) if either of the parents requests that this be done in conjunction with matrimonial proceedings or proceedings concerning parental responsibility, with whom the child shall live or right of access,
- b) if the maintenance enforcement officer refers the parties to the courts because this is more appropriate in view of the nature of the case.

With regard to contributions pursuant to section 53, second and third paragraphs, to children who have reached the age of 18, it is the child himself or herself who shall make an agreement or be party to the case.

If the parents are not cohabiting when the child is born and they have not made an agreement regarding contributions, the maintenance enforcement officer shall on his own initiative determine the maintenance contribution to the child.

An agency dealing with cases concerning the determination of contributions has the same right to request information as the maintenance enforcement officer pursuant to section 10, second paragraph.

The Ministry may by regulation lay down supplementary rules on the assessment of maintenance contributions pursuant to this Act.

### **Section 55 Determination of contributions for periods already elapsed**

Maintenance contributions may also be determined in respect of periods already elapsed, but nonetheless not in respect of periods that have expired more than three years before the date on which the claim was submitted to the decision-making agency. If contributions are to be determined in respect of a period that has expired more than one year previously, it is a condition that the party has had a special reason for the delay in submitting the claim.

### **Section 56 Indexation of maintenance contributions**

All fixed maintenance contributions to children shall be index-linked pursuant to the provisions of this section unless otherwise determined in the decision or the agreement.

Indexation also applies to the minimum amount stipulated pursuant to section 5, first paragraph, of Act No. 2 of 17 February 1989 on Advance Payment of Maintenance Contributions.

Indexation is linked to changes in the consumer price index issued by the Central Bureau of Statistics. The contributions shall be adjusted each year on the basis of the change in the value of the consumer price index as of the month of January compared with the value of the index at the previous adjustment. Each adjustment shall apply only to maintenance instalments falling due in June or later.

The contributions shall be adjusted by the same percentage as that by which the consumer price index has changed, calculated to the nearest tenth of one percent. The amount of the contribution shall be rounded off to the nearest ten kroner.

The maintenance enforcement officer shall recalculate contributions to be recovered pursuant to the Act on Recovery of Maintenance Contributions.

The Ministry may lay down regulations to implement and supplement the provisions of this section.

### **Section 57 Special alterations in contributions determined**

A request may be made to alter contributions determined by an administrative agency or a court of justice, if special grounds so indicate. The Ministry may by regulation lay down supplementary rules on such alteration.

Contributions that have been or should have been paid when the request for alteration was submitted may also be reduced, increased or remitted if there are strong reasons for so doing. The Ministry may by regulation lay down supplementary rules on remission of such debt. The provisions of section 55, second sentence, apply correspondingly.

When a decision is rendered to reduce contributions that should have been paid already, private and public claims in regard to the contribution for the period to which the alteration applies, shall be determined again, taking the new contribution rate into account.

The provisions of section 54, second and third paragraphs, shall apply correspondingly with regard to who is responsible for deciding special alterations.

The provisions of section 54, sixth paragraph, to the effect that the maintenance enforcement officer may determine maintenance contributions on his own initiative shall apply correspondingly in the event of alteration of contributions.

### **Section 58 Relationship between the decision-making agency and claims by the parties**

In appeals and in proceedings regarding alterations of maintenance contributions pursuant to section 57, the decision-making agency may go beyond the claims of the parties. The decision-making agency may also alter other contributions pursuant to the Children Act and maintenance contributions to the spouse even if none of the parties so requests.

### **Section 59 Interim decision in maintenance contribution proceedings**

If it is evident that the contribution in a case will be an amount at least equal to the advance payment on contributions pursuant to Act No. 2 of 17 February 1989 relating to Advance Payment of Maintenance Contributions (the Advance Payment Act), the maintenance enforcement officer shall determine an interim contribution without delay. This contribution shall not be less than the advance payment to the children pursuant to the Advance Payment Act. On these same conditions, the maintenance enforcement officer shall render interim decisions to increase the contribution in a case.

In other cases, the maintenance enforcement officer may, on request, or in cases pursuant to section 54, fifth paragraph, on his own initiative, render interim decisions in proceedings to determine or increase contributions. If time is short, such decisions may be rendered without the opposite party being allowed to express an opinion.

The maintenance enforcement officer may, on request, render interim decisions to reduce contributions without the opposite party being allowed to express an opinion. This

applies if the maintenance enforcement officer deems it clear that the conditions for so doing are present.

Interim decisions pursuant to the first, second and third paragraphs apply from the month in which the request for determination or alteration was submitted. Such decisions may be carried out immediately, unless otherwise determined, and apply only until a final decision is rendered in the matter.

When maintenance cases shall be decided by a court, this section shall apply correspondingly. Interim decisions shall be rendered in a court order.

### **Section 59a**

A decision regarding a child maintenance contribution determined by the maintenance enforcement officer may be appealed to the county office of the National Insurance Service.

### **Section 60 Implementation of decisions regarding contributions**

Decisions in maintenance contribution proceedings are enforceable by execution. Such decisions have legal effect and may be implemented before they become final, unless otherwise determined. The time-limit for compliance is three days unless another time-limit has been fixed.

As regards recovery of maintenance contributions, Act No 5 of 9 December 1955 on Recovery of Maintenance Contributions etc., shall also apply.

If contributions that have been paid are reduced pursuant to section 57, the person paying the contributions may demand that the agency for recovery of maintenance contributions reduce the deduction ordered in his or her wages etc., in such manner and for such instalments as are judged equitable by the agency.

### **Section 61 Advance payment of maintenance contributions**

Act No 2 of 17 February 1989 relating to Advance Payment of Maintenance Contributions (the Advance Payment Act) shall apply to the advance payment of contributions.

### **Section 62 Application for repayment of maintenance contributions when paternity has changed**

If any person who by order or agreement has paid maintenance contributions to a child is later absolved of being the father of the child, he may claim reimbursement of the amount thereof from the National Insurance Fund. The claim may be reduced or fail if it is clear that he had no reasonable grounds for acknowledging paternity, or that he should have instituted proceedings for change of paternity earlier.

A person absolved of paternity may not apply to have the contributions repaid by the child himself or herself, by the mother or by the real father of the child.

## **CHAPTER 8 CONCERNING THE APPLICATION OF THE CHILDREN ACT WHEN ANY OF THE PARTIES HAVE CONNECTIONS WITH FOREIGN COUNTRIES**

### **Section 63 When paternity may be established in Norway**

Paternity may be established in Norway pursuant to section 4, section 7 and chapters 3 and 4

- a) if the mother was resident in Norway when the child was born
- b) if the child has later taken up residence in Norway, and the mother or the guardian of the child wishes to have paternity established here, or
- c) if the putative father is resident in Norway.

Proceedings for change pursuant to section 6 may be instituted before a Norwegian court if any of the persons entitled to institute proceedings are resident in Norway, or if paternity has been established under Norwegian law.

### **Section 64 When proceedings regarding parental responsibility or right of access may be dealt with by Norwegian judicial or administrative authorities**

Proceedings regarding parental responsibility, with whom the child shall live or right of access may be instituted in a Norwegian court or the case may be dealt with by the county governor

- a) if the person against whom the claim is directed is resident in Norway
- b) if the child is resident in Norway, or
- c) if the question of parental responsibility or right of access has previously been determined in Norway, unless it is legally possible to have the question decided abroad and the decision-making agency is of the opinion that the case should be decided there.

Proceedings regarding an interim decision may be dealt with by a Norwegian court in all cases where the child or the defendant is staying in Norway.

### **Section 65 When proceedings regarding maintenance contributions may be dealt with by Norwegian judicial or administrative authorities**

Questions regarding maintenance contributions may be dealt with by the maintenance enforcement officer or a Norwegian court of justice

- a) when the question has been raised in proceedings regarding paternity, parental responsibility or right of access before a competent Norwegian body, or
- b) if one of the parties or the child is resident in Norway.

### **Section 66 Choice of law**

Cases that come under Norwegian jurisdiction pursuant to sections 63-65 shall be decided in accordance with Norwegian law.

### **Section 67 Recognition of paternity established abroad**

If the paternity of a child follows directly from foreign law which shall be applied according to the rules of law in the country in question, this shall be effective in Norway, unless otherwise established pursuant to sections 6 and 7.

The King may by regulation or in the individual case decide that paternity which has been established in another manner pursuant to foreign law, shall be effective in Norway. The same may be established in an agreement with a foreign state.

## **CHAPTER 9 CONCLUDING PROVISIONS**

### **Section 68 Implementation**

The King may prescribe the regulations necessary for the implementation of this Act.

### **Section 69 Commencement**

This Act comes into force on the date determined by the King.

### **Section 70 Effect of the Act on children who were born before the Act came into force**

The Act also applies to children who were born before the Act came into force. The following exceptions shall apply:

- a) Paternity that follows from or was established pursuant to earlier legislation shall remain effective until otherwise established pursuant to this Act.
- b) Agreements or decisions regarding parental responsibility, right of access or duty of maintenance from the period prior to the Act's coming into force shall remain in force until they are in the event amended pursuant to this Act. Right of access directly pursuant to section 44, second paragraph, first sentence, shall not apply when the parents have become estranged before the Act came into force.

### **Section 71 Amendments to other Acts**

From such time as the Act comes into force the following amendments will be made to other Acts: .....