Human Fertilisation and Embryology Act 1990

1990 CHAPTER 37

The Human Fertilisation and Embryology Authority, its functions and procedure

5 The Human Fertilisation and Embryology Authority.

(1) There shall be a body corporate called the Human Fertilisation and Embryology Authority.

(2) The Authority shall consist of—

(a) a chairman and deputy chairman, and

(b) such number of other members as the Secretary of State appoints.

(3) Schedule 1 to this Act (which deals with the membership of the Authority, etc.) shall have effect.

6 Accounts and audit.

(1) The Authority shall keep proper accounts and proper records in relation to the accounts and shall prepare for each accounting year a statement of accounts.

(2) The annual statement of accounts shall comply with any direction given by the Secretary of State, with the approval of the Treasury, as to the information to be contained in the statement, the way in which the information is to be presented or the methods and principles according to which the statement is to be prepared.

(3) Not later than five months after the end of an accounting year, the Authority shall send a copy of the statement of accounts for that year to the Secretary of State and to the Comptroller and Auditor General.

(4) The Comptroller and Auditor General shall examine, certify and report on every statement of accounts received by him under subsection (3) above and shall lay a copy of the statement and of his report before each House of Parliament.

(5) The Secretary of State and the Comptroller and Auditor General may inspect any records relating to the accounts.

(6) In this section "accounting year" means the period beginning with the day when the Authority is established and ending with the following 31st March, or any later period of twelve months ending with the 31st March.

7 Reports to Secretary of State.

[[F1](1) The Authority shall prepare—

(a) a report for the period beginning with the 1 August preceding the relevant commencement date (or if that date is a 1 August, beginning with that date) and ending with the next 31 March, and

(b) a report for each succeeding period of 12 months ending with 31 March.

(1A) In subsection (1)(a) "the relevant commencement date" means the day on which paragraph 3 of Schedule 7 to the Human Fertilisation and Embryology Act 2008 comes into force.

(1B) The Authority shall send each report to the Secretary of State as soon as practicable after the end of the period for which it is prepared.**]**

(2) A report prepared under this section for any period shall deal with the activities of the Authority in the period and the activities the Authority proposes to undertake in the succeeding period of twelve months.

(3) The Secretary of State shall lay before each House of Parliament a copy of every report received by him under this section.

Textual Amendments

F1 S. 7(1)-(1B) substituted for s. 7(1) (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), s. 68(2), **Sch. 7 para. 3**; S.I. 2009/2232, art. 2(y)

8 General functions of the Authority.

[[F2](1)**]** The Authority shall—

(a) keep under review information about embryos and any subsequent development of embryos and about the provision of treatment services and activities governed by this Act, and advise the Secretary of State, if he asks it to do so, about those matters,

(b) publicise the services provided to the public by the Authority or provided in pursuance of licences,

(c) provide, to such extent as it considers appropriate, advice and information for persons to whom licences apply or who are receiving treatment services or providing gametes or embryos for use for the purposes of activities governed by this Act, or may wish to do so, [F3]...

[[F4](ca) maintain a statement of the general principles which it considers should be followed—

(i) in the carrying-on of activities governed by this Act, and

(ii) in the carrying-out of its functions in relation to such activities,

(cb) promote, in relation to activities governed by this Act, compliance with—

(i) requirements imposed by or under this Act, and

(ii) the code of practice under section 25 of this Act, and**]**

(d) perform such other functions as may be specified in regulations.

[[F5](2) The Authority may, if it thinks fit, charge a fee for any advice provided under subsection (1)(c).**]**

Textual Amendments

F2 S. 8(1): s. 8 renumbered as s. 8(1) (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 6(1)**, 68(2); S.I. 2009/2232, art. 2(a)

F3 Word in s. 8(1) repealed (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 6(2)(a), 68(2), **Sch. 8 Pt. 1**; S.I. 2009/2232, art. 2(a)

F4 S. 8(1)(ca)(cb) inserted (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 6(2)(b)**, 68(2); S.I. 2009/2232, art. 2(a)

F5 S. 8(2) inserted (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 6(3)**, 68(2); S.I. 2009/2232, art. 2(a)

Commencement Information

I1 S. 8 wholly in force at 1.8.1991 see s. 49(2) and S.I. 1991/1400, **art. 2(2)**

[F6 8ZA Duties in relation to carrying out its functions

(1) The Authority must carry out its functions effectively, efficiently and economically.

(2) In carrying out its functions, the Authority must, so far as relevant, have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed).**]**

Textual Amendments

F6 S. 8ZA inserted (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 7**, 68(2); S.I. 2009/2232, art. 2(a)

[F7 8ZB [F8 Duties of the Authority in relation to the Single European Code: Northern Ireland]

(1) The Authority **[**[F9]in relation to Northern Ireland,**]** must allocate to each holder of a relevant licence, one or more unique numbers as the tissue establishment number or numbers in relation to that licence holder in accordance with Annex VII and paragraph 2(a) of Article 10b of the third Directive.

(2) Any number allocated under subsection (1) must be in the format specified in Annex VII.

[[F10](3) In relation to Northern Ireland, the Authority must take steps to enable the information specified in Annex VIII to be recorded in the EU Tissue Establishment Compendium in relation to each holder of a relevant licence.**]**

[F11](4) . . . . . .

[[F12](5) The Authority must take the steps mentioned in subsection (3) to enable the information mentioned in that subsection to be recorded before the end of the period of 10 working days beginning with the day on which the person becomes the holder of a relevant licence.**]**

(6) Subsection (7) applies if the Authority becomes aware that any information recorded under subsection (3) was incorrectly recorded or requires updating.

(7) **[**[F13]The Authority must take steps to enable the information to be corrected or updated**]** —

(a) in the case of a correction or update which the Authority considers to be a significant change to the information recorded under subsection (3), before the end of the period of 10 working days beginning with the day on which the Authority became aware that the information was incorrectly recorded or required updating;

(b) in any other case, as soon as is reasonably practicable.

(8) Subsection (9) applies if the Authority becomes aware that—

(a) any information recorded in the EU Tissue Establishment Compendium in respect of a tissue establishment in a relevant state was incorrectly recorded or requires updating, or

(b) a tissue establishment in a relevant state has not complied with the requirements of the laws or other measures adopted in that state for the purpose of implementing paragraph 1 of Article 10b of the third Directive and the non-compliance is significant.

(9) The Authority must inform the competent authority in the relevant state in question.

(10) If the Authority becomes aware that the information recorded in the EU Tissue and Cell Product Compendium requires updating, it must inform the European Commission and the competent authority in the relevant state.

(11) In this section—

"Annex VII" means Annex VII to the third Directive,

"Annex VIII" means Annex VIII to the third Directive,

"EU Tissue and Cell Product Compendium" and "EU Tissue Establishment Compendium" have the same meaning as in Article 2 of the third Directive,

"relevant licence" means a licence granted under any of the following provisions of Schedule 2—

(a) paragraph 1,

(b) paragraph 1A,

(c) paragraph 2, so far as authorising the storage of gametes or embryos intended for human application,

(d) paragraph 3, so far as authorising activities in connection with the derivation from embryos of stem cells that are intended for human application,

[[F14]"relevant state" means an EEA State,**]**

"working day" means any day other than—

(a) a Saturday or Sunday,

(b) Christmas Day or Good Friday, or

(c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.**]**

Textual Amendments

F7 S. 8ZB inserted (6.3.2018 for specified purposes, 1.4.2018 in so far as not already in force) by The Human Fertilisation and Embryology (Amendment) Regulations 2018 (S.I. 2018/334), regs. 1(3), **4(1)**

F8 S. 8ZB heading substituted (31.12.2020) by S.I. 2019/482, **reg. 2(6)(a)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **7**); 2020 c. 1, **Sch. 5 para. 1(1)**

F9 Words in s. 8ZB(1) inserted (31.12.2020) by S.I. 2019/482, **reg. 2(6)(b)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **7**); 2020 c. 1, **Sch. 5 para. 1(1)**

F10 S. 8ZB(3) substituted (31.12.2020) by S.I. 2019/482, **reg. 2(6)(c)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **7**); 2020 c. 1, **Sch. 5 para. 1(1)**

F11 S. 8ZB(4) omitted (31.12.2020) by S.I. 2019/482, **reg. 2(6)(d)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **7**); 2020 c. 1, **Sch. 5 para. 1(1)**

F12 S. 8ZB(5) substituted (31.12.2020) by S.I. 2019/482, **reg. 2(6)(e)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **7**); 2020 c. 1, **Sch. 5 para. 1(1)**

F13 Words in s. 8ZB(7) substituted (31.12.2020) by S.I. 2019/482, **reg. 2(6)(f)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **7**); 2020 c. 1, **Sch. 5 para. 1(1)**

F14 Words in s. 8ZB(11) substituted (31.12.2020) by S.I. 2019/482, **reg. 2(6)(g)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **7**); 2020 c. 1, **Sch. 5 para. 1(1)**

[[F15]8A [[F16]Duty of Authority to communicate with competent authorities of EEA states: Northern Ireland]

[[F17]The Authority must, in relation to Northern Ireland, communicate to the competent authorities of EEA states**]**, and to the European Commission, such information in relation to serious adverse events and serious adverse reactions as is necessary for the purpose of enabling appropriate action to be taken, including where necessary the withdrawal from use of gametes and embryos that are intended for human application but are known or suspected to be unsuitable for such application.**]**

Textual Amendments

F15 S. 8A inserted (25.5.2007 for certain purposes, otherwise 5.7.2007) by The Human Fertilisation and Embryology (Quality and Safety) Regulations 2007 (S.I. 2007/1522), regs. 1, **10**

F16 S. 8A heading substituted (31.12.2020) by S.I. 2019/482, **reg. 2(7)(a)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **8**); 2020 c. 1, **Sch. 5 para. 1(1)**

F17 Words in s. 8A substituted (31.12.2020) by S.I. 2019/482, **reg. 2(7)(b)** (as substituted by The Human Fertilisation and Embryology (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1307), regs. 1, **8**); 2020 c. 1, **Sch. 5 para. 1(1)**

[F18 8B Agency arrangements and provision of services

(1) Arrangements may be made between the Authority and a government department, a public authority or the holder of a public office ("the other authority") for—

(a) any functions of the Authority to be exercised by, or by members of the staff of, the other authority, or

(b) the provision by the other authority of administrative, professional or technical services to the Authority.

(2) Arrangements under subsection (1)(a) do not affect responsibility for the carrying-out of the Authority's functions.

(3) Subsection (1)(a) does not apply to any function of making subordinate legislation (within the meaning of the Interpretation Act 1978).

Textual Amendments

F18 Ss. 8B-8D inserted (6.4.2009 for specified purposes, 1.10.2009 in so far as not already in force) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 8**, 68(2); S.I. 2009/479, art. 2 (with art. 7Sch.); S.I. 2009/2232, art. 2(b)

8C Contracting out functions of Authority

(1) This section applies to any function of the Authority other than—

(a) any function which, by virtue of any enactment, may be exercised only by members of the Authority,

(b) a function excluded from this section by subsection (2), or

(c) a function excluded from this section by the Secretary of State by order.

(2) A function is excluded from this section if—

(a) it relates to the grant, revocation or variation of any licence,

(b) it is a power or right of entry, search or seizure into or of any property, or

(c) it is a function of making subordinate legislation (within the meaning of the Interpretation Act 1978).

(3) The Authority may make arrangements with any person ("the authorised person") for the exercise by that person, or by the employees of that person, of any function of the Authority to which this section applies.

(4) Any arrangements made by the Authority under this section—

(a) may be revoked at any time by the Authority, and

(b) do not prevent the Authority from exercising any function to which the arrangements relate.

(5) Subject to subsection (6), anything done or omitted to be done by or in relation to the authorised person (or an employee of the authorised person) in, or in connection with, the exercise or purported exercise of any function to which the arrangements relate is to be treated for all purposes as done or omitted to be done by or in relation to the Authority.

(6) Subsection (5) does not apply—

(a) for the purposes of so much of any contract between the authorised person and the Authority as relates to the exercise of the function, or

(b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or any employee of the authorised person).

(7) Section 38A(2) of this Act (which relates to the keeping of embryos, human admixed embryos and gametes) applies in relation to the authorised person or any employee of the authorised person, when exercising functions of the Authority, as it applies in relation to any member or employee of the Authority exercising functions as member or employee.

Textual Amendments

F18 Ss. 8B-8D inserted (6.4.2009 for specified purposes, 1.10.2009 in so far as not already in force) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 8**, 68(2); S.I. 2009/479, art. 2 (with art. 7Sch.); S.I. 2009/2232, art. 2(b)

8D Disclosure of information where functions of Authority exercised by others

(1) This section applies to—

(a) the Authority,

(b) any public authority or other person exercising functions of the Authority by virtue of section 8B,

(c) any member of staff of any person falling within paragraph (b),

(d) any person exercising functions of the Authority by virtue of section 8C,

(e) an employee of any person falling within paragraph (d), or

(f) any person engaged by the Authority to provide services to the Authority.

(2) No obligation of confidence is to prevent the disclosure of information by a person to whom this section applies to another such person if the disclosure is necessary or expedient for the purposes of the exercise of any function of the Authority.**]**

Textual Amendments

F18 Ss. 8B-8D inserted (6.4.2009 for specified purposes, 1.10.2009 in so far as not already in force) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 8**, 68(2); S.I. 2009/479, art. 2 (with art. 7Sch.); S.I. 2009/2232, art. 2(b)

[[F19]8E Power to assist other public authorities

(1) The Authority may if it thinks it appropriate to do so provide assistance to any other public authority in the United Kingdom for the purpose of the exercise by that authority of its functions.

(2) Assistance provided by the Authority under this section may be provided on such terms, including terms as to payment, as it thinks fit.**]**

Textual Amendments

F19 S. 8E inserted (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 9**, 68(2); S.I. 2009/2232, art. 2(c)

[F20 9A Power to delegate and establish committees

(1) The Authority may delegate a function to a committee, to a member or to staff.

(2) The Authority may establish such committees or sub-committees as it thinks fit (whether to advise the Authority or to exercise a function delegated to it by the Authority).

(3) Subject to any provision made by regulations under section 20A (appeals committees), the members of the committees or sub-committees may include persons who are not members of the Authority.

(4) Subsection (1) has effect subject to any enactment requiring a decision to be taken by members of the Authority or by a committee consisting of members of the Authority.]

Textual Amendments

F20 S. 9A substituted for s.9 (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), **ss. 10**, 68(2); S.I. 2009/2232, art. 2(c)

F21 10 Licensing procedure.

. . . . . .

Textual Amendments

F21 S. 10 repealed (1.10.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), s. 68(2), Sch. 7 para. 4, **Sch. 8 Pt. 1**; S.I. 2009/2232, art. 2(y)

Changes to legislation:
There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Cross Heading: The Human Fertilisation and Embryology Authority, its functions and procedure.