
DRAFT STATUTORY INSTRUMENTS

2010 No.

**The Human Fertilisation and Embryology
(Parental Orders) Regulations 2010**

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Human Fertilisation and Embryology (Parental Orders) Regulations 2010 and shall come into force on 6th April 2010.

(2) Any provision of these Regulations which applies or modifies an enactment has the same extent as the enactment to which it relates.

(3) Subject to paragraph (2), these Regulations extend to England and Wales, Scotland and Northern Ireland.

(4) In these Regulations—

“the 2002 Act” means the Adoption and Children Act 2002(1);

“the 2007 Act” means the Adoption and Children (Scotland) Act 2007(2);

“the 2008 Act” means the Human Fertilisation and Embryology Act 2008; and

“the 1987 Order” means the Adoption (Northern Ireland) Order 1987(3).

(5) In these Regulations, and in any provision that is applied with modifications by regulation 2, 3 or 4 and Schedule 1, 2 or 3, “parental order” means an order under section 54 of the 2008 Act (parental orders) and, for the purposes of the provisions specified in paragraph (6), also includes an order under section 30 of the Human Fertilisation and Embryology Act 1990(4) (parental orders).

(6) The provisions referred to in paragraph (5) are—

(a) sections 60, 77 to 82 of, and Schedule 1 to, the 2002 Act, as applied with modifications by regulation 2 and Schedule 1;

(b) Articles 50 to 54 of, and Schedule 2 to, the 1987 Order, as applied with modifications by regulation 3 and Schedule 2;

(c) sections 53 to 57 of, and Schedule 1 to, the 2007 Act, as applied with modifications by regulation 4 and Schedule 3; and

(d) paragraphs 1, 13, 17, 18 and 20 of Schedule 4 to these Regulations.

Application of certain provisions of the 2002 Act subject to modifications

2. The provisions of the 2002 Act set out in column 1 of Schedule 1 have effect in relation to parental orders made in England and Wales and applications for such orders as they have effect in relation to adoption orders and applications for such orders, subject to the modifications set out in column 2 of that Schedule.

(1) 2002 c.38.

(2) 2007 asp 4.

(3) S.I. 1987/2203 (N.I.22).

(4) 1990 c.37; section 30 was amended by the Adoption and Children (Scotland) Act 2007 (asp 4), section 120(1) and (2) and schedule 2 paragraph 6 and Schedule 3.

Application of certain provisions of the 1987 Order subject to modifications

3. The provisions of the 1987 Order set out in column 1 of Schedule 2 have effect in relation to parental orders made in Northern Ireland and applications for such orders as they have effect in relation to adoption orders and applications for such orders, subject to the modifications set out in column 2 of that Schedule.

Application of certain provisions of the 2007 Act subject to modifications

4. The provisions of the 2007 Act set out in column 1 of Schedule 3 have effect in relation to parental orders made in Scotland and applications for such orders as they have effect in relation to adoption orders and applications for such orders, subject to the modifications set out in column 2 of that Schedule.

References in enactments to be read as references to parental orders etc.

5. In the enactments mentioned in column 1 of Schedule 4, the references mentioned in column 2 of that Schedule (which relate to adoption, adopted children or an adoptive relationship) are to be read as provided for in column 2.

Appeals: England and Wales

6. In section 94 of the Children Act 1989⁽⁵⁾ (which relates to appeals from decisions of a magistrates' court in England and Wales) any reference to an order under the 2002 Act is to be read as including a reference to—

- (a) a parental order; and
- (b) an order under any provision of the 2002 Act as applied by regulation 2 and Schedule 1.

Family Proceedings Rules: England and Wales

7. Until section 75 of the Courts Act 2003⁽⁶⁾ (Family Procedure Rules) comes into force in relation to parental orders, section 141 of the 2002 Act as applied by regulation 2 and Schedule 1 is to have effect as if—

- (a) in subsection (1), the reference to Family Procedure Rules were a reference to rules of court made under section 40 of the Matrimonial and Family Proceedings Act 1984⁽⁷⁾; and
- (b) that subsection did not apply in relation to proceedings before Magistrates' Courts, but the powers to make rules conferred by section 144 of the Magistrates' Courts Act 1980⁽⁸⁾ included powers to make provision in respect of any of the matters mentioned in that subsection.

(5) 1989 c.41; section 94 was amended by the Courts and Legal Services Act 1990 (c.41), section 116 and Schedule 16 paragraph 23; the Adoption and Children Act 2002 (c.38), section 100; Constitutional Reform Act 2005 (c.4), section 15(1) and Schedule 4, Part 1, paragraphs 203, 206(1), (2) and (3); and by S.I. 2009/871.

(6) 2003 c.39.

(7) Section 40 is prospectively repealed by the Courts Act 2003 (c.39), section 109(1) and (3), Schedule 8, paragraph 278(a) and Schedule 10. Section 40 was amended by the Courts and Legal Services Act 1990 (c.41), section 125(3) and Schedule 18, paragraph 50; the Civil Procedure Act 1997 (c.12), section 10 and Schedule 2, paragraph 3(a); the Adoption and Children Act 2002 (c.39), section 139(1) and (3), Schedule 3, paragraph 44 and Schedule 5; the Children Act 2004 (c.31), section 62(5); the Civil Partnership Act 2004 (c.33), section 261(1) and Schedule 27, paragraph 95; the Constitutional Reform Act 2005 (c.4), sections 12(2), 15(1), 59(5), 146, Schedule 1, Part 2, paragraph 18(a) and (b), Schedule 4, Part 2, paragraphs 379, 380(1) to (4), Schedule 11, Part 1, paragraph 1(2), Part 2, paragraph 4(1) and (3), Schedule 18, Part 1 and Part 2; and by S.I. 2005/2744.

(8) Section 144 was amended by the Courts and Legal Services Act 1990 (c.41), section 125(3) and Schedule 18, paragraph 25; the Access to Justice Act 1999 (c.22), section 78(2), Schedule 11, paragraphs 26 and 29; the Courts Act 2003 (c.39), section 109(1) and (3), Schedule 8, paragraph 245(1) to (5) and Schedule 10; the Constitutional Reform Act 2005 (c.4), sections 15(1), 59(5), Schedule 4, Part 1, paragraphs 99, 102(1), (2), (3)(a), (3)(b), and (4) to (6), Schedule 11, Part 2, paragraph 4(1) and (3); and the Legal Services Act 2007 (c.29), section 208(1), Schedule 21, paragraphs 42, 43(a) and (b).

Signed by authority of the Secretary of State for Health.

Date

Name
Minister of State,
Department of Health