



# Human Fertilisation and Embryology Act 1990

## CHAPTER 37

### HUMAN FERTILISATION AND EMBRYOLOGY ACT 1990

#### *Principal terms used*

- 1 Meaning of “embryo”, “gamete” and associated expressions.
- 1A Reference to Directives
- 2 Other terms.
- 2A Third party agreements
- 2B Meaning of “importing licensee”, “third country premises” etc

#### *Activities governed by the Act*

- 3 Prohibitions in connection with embryos.
- 3ZA Permitted eggs, permitted sperm and permitted embryos
- 3A Prohibition in connection with germ cells.
- 4 Prohibitions in connection with gametes.
- 4A Prohibitions in connection with genetic material not of human origin

#### *The Human Fertilisation and Embryology Authority, its functions and procedure*

- 5 The Human Fertilisation and Embryology Authority.
- 6 Accounts and audit.
- 7 Reports to Secretary of State.
- 8 General functions of the Authority.
- 8ZA Duties in relation to carrying out its functions
- 8ZB Duties of the Authority in relation to the Single European Code:  
Northern Ireland
- 8A Duty of Authority to communicate with competent authorities of EEA  
states: Northern Ireland

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- 8B Agency arrangements and provision of services
- 8C Contracting out functions of Authority
- 8D Disclosure of information where functions of Authority exercised by others
- 8E Power to assist other public authorities
- 9A Power to delegate and establish committees
- 10 Licensing procedure.

#### *Scope of licences*

- 11 Licences for treatment, storage and research.

#### *Licence conditions*

- 12 General conditions.
- 13 Conditions of licences for treatment.
- 13A Conditions of licences for non-medical fertility services
- 14 Conditions of storage licences.
- 14A Conditions of licences: human application
- 15 Conditions of research licences.
- 15A Duties of the Authority in relation to serious adverse events and serious adverse reactions
- 15B Inspection of third country premises etc.: Northern Ireland
- 15C Third country premises and third country suppliers: report of inspections etc: Northern Ireland

#### *Grant, revocation and suspension of licences*

- 16 Grant of licence.
- 17 The person responsible.
- 18 Revocation of licence
- 18A Variation of licence
- 19 Procedure in relation to licensing decisions
- 19A Notification of licensing decisions
- 19B Applications under this Act
- 19C Power to suspend licence
- 20 Right to reconsideration of licensing decisions
- 20A Appeals committee
- 20B Procedure on reconsideration
- 21 Appeal on a point of law
- 22 Temporary suspension of licence.

#### *Directions and guidance*

- 23 Directions: general.
- 24 Directions as to particular matters.
- 25 Code of practice.
- 26 Procedure for approval of code.

#### *Status*

- 27 Meaning of “mother”.
- 28 Meaning of “father”.
- 29 Effect of sections 27 and 28.
- 30 Parental orders in favour of gamete donors.

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### *Information*

- 31 Register of information
- 31ZA Request for information as to genetic parentage etc.
- 31ZB Request for information as to intended spouse etc.
- 31ZC Power of Authority to inform donor of request for information
- 31ZD Provision to donor of information about resulting children
- 31ZE Provision of information about donor-conceived genetic siblings
- 31ZF Power of Authority to keep voluntary contact register
- 31ZG Financial assistance for person setting up or keeping voluntary contact register
- 31A The Authority's register of licences
- 31B The Authority's register of serious adverse events and serious adverse reactions
- 32 Information to be provided to Registrar General.
- 33A Disclosure of information
- 33B Consent required to authorise certain disclosures
- 33C Power to provide for additional exceptions from section 33A(1)
- 33D Disclosure for the purposes of medical or other research
- 34 Disclosure in interests of justice.
- 35 Disclosure in interests of justice: congenital disabilities, etc.

### *Mitochondrial donation*

- 35A Mitochondrial donation

### *Fees*

- 35B Fees

### *Surrogacy*

- 36 Amendment of Surrogacy Arrangements Act 1985.

### *Abortion*

- 37 Amendment of law relating to termination of pregnancy.

### *Conscientious objection*

- 38 Conscientious objection.

### *Enforcement*

- 38A Inspection, entry, search and seizure
- 39 Powers of members and employees of Authority.
- 40 Power to enter premises.

### *Offences*

- 41 Offences.
- 42 Consent to prosecution.

### *Miscellaneous and General*

- 42A Powers to make regulations in relation to standards of quality and safety

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- 43 Keeping and examining gametes and embryos in connection with crime, etc.
- 44 Civil liability to child with disability.
- 45 Regulations.
- 45A Power to make consequential provision
- 45B Orders
- 46 Notices.
- 47 Index.
- 48 Northern Ireland.
- 49 Short title, commencement, etc.

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## SCHEDULES

### SCHEDULE 1 — The Authority: Supplementary Provisions

#### *Status and capacity*

- 1 The Authority shall not be regarded as the servant or...
- 2 The Authority shall have power to do anything which is...

#### *Expenses*

- 3 The Secretary of State may, with the consent of the...

#### *Appointment of members*

- 4 (1) All the members of the Authority (including the chairman...
- 4A (1) A person (“P”) is disqualified for being appointed as...

#### *Tenure of office*

- 5 (1) Subject to the following provisions of this paragraph and...
- 5A The Secretary of State may suspend a member from office...
- 5B (1) This paragraph applies where the Secretary of State decides...

#### *Disqualification of members of Authority for House of Commons and Northern Ireland Assembly*

- 6 In Part II of Schedule 1 to the House of...

#### *Remuneration and pensions of members*

- 7 (1) The Authority may— (a) pay to the chairman such...

#### *Staff*

- 8 (1) The Authority may appoint such employees as it thinks...

#### *Proceedings*

- 9 (1) Subject to any provision of this Act, the Authority...
- 10 (1) A member of the Authority who is in any...
- 11 The validity of any proceedings of the Authority, or of...

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### *Instruments*

- 12 The fixing of the seal of the Authority shall be...
- 13 A document purporting to be duly executed under the seal...

### *Investigation by Parliamentary Commissioner*

- 14 The Authority shall be subject to investigation by the Parliamentary...

### *Application of Statutory Instruments Act 1946*

- 15 The Statutory Instruments Act 1946 applies to any power to...

## SCHEDULE 2 — Activities for which licences may be granted

### *Licences for treatment*

- 1 (1) A licence under this paragraph may authorise any of...

### *Embryo testing*

- 1ZA (1) A licence under paragraph 1 cannot authorise the testing...

### *Sex selection*

- 1ZB (1) A licence under paragraph 1 cannot authorise any practice...

### *Power to amend paragraphs 1ZA and 1ZB*

- 1ZC (1) Regulations may make any amendment of paragraph 1ZA (embryo...

### *Licences for non-medical fertility services*

- 1A (1) A licence under this paragraph may authorise any of...

### *Licences for storage*

- 2 (1) A licence under this paragraph or paragraph 1 or...

### *Licences for research*

- 3 (1) A licence under this paragraph may authorise any of...

### *Purposes for which activities may be licensed under paragraph 3*

- 3A (1) A licence under paragraph 3 cannot authorise any activity...

### *General*

- 4 (1) A licence under this Schedule can only authorise activities...

## SCHEDULE 3 — Consents to use OR STORAGE OF GAMETES, EMBRYOS OR HUMAN ADMIXED EMBRYOS ETC

### *Consent*

- 1 (1) A consent under this Schedule, any renewal of consent,...
- 2 (1) A consent to the use of any embryo must...

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*Procedure for giving consent*

- 3 (1) Before a person gives or renews consent under this...

*Variation and withdrawal of consent*

- 4 (1) The terms of any consent under this Schedule may...  
4A (1) This paragraph applies where— (a) a permitted embryo, the...

*Use of gametes for treatment of others*

- 5 (1) A person's gametes must not be used for the...

*In vitro fertilisation and subsequent use of embryo*

- 6 (1) A person's gametes or human cells must not be...

*Embryos obtained by lavage, etc.*

- 7 (1) An embryo taken from a woman must not be...

*Storage of gametes and embryos*

- 8 (1) A person's gametes must not be kept in storage...

*Cases where consent not required for storage*

- 9 (1) The gametes of a person ("C") may be kept...  
10 (1) The gametes of a person ("P") may be kept...  
11 A person's gametes must not be kept in storage by...

*Renewal of consent to storage of gametes*

- 11A (1) This paragraph applies where— (a) the gametes of a...  
11B (1) For the purposes of paragraph 11A, each of the...

*Renewal of consent to storage of embryos*

- 11C (1) This paragraph applies where— (a) an embryo, the creation...  
11D (1) For the purposes of paragraph 11C, each of...

*Creation, use and storage of human admixed embryos*

- 12 (1) A person's gametes or human cells must not be...  
13 (1) A human admixed embryo the creation of which was...  
14 For the purposes of paragraphs 12 and 13, each of...

*Parental consent conditions*

- 15 (1) In relation to a person who has not attained...

*Adults lacking capacity: exemption relating to use of human cells etc.*

- 16 (1) If, in relation to the proposed use under a...

*Consent to use of human cells etc. not required: adult lacking capacity*

- 17 (1) The conditions referred to in paragraph 16(1)(a) are as...

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*Consulting carers etc. in case of adult lacking capacity*

- 18 (1) This paragraph applies in relation to a person who...

*Effect of acquiring capacity*

- 19 (1) Paragraph 16 does not apply to the use of...

*Use of cells or cell lines in existence before relevant commencement date*

- 20 (1) Where a licence authorises the application of this paragraph...

*Conditions for grant of exemption in paragraph 20*

- 21 (1) A licence may not authorise the application of paragraph...

*Interpretation*

- 22 (1) In this Schedule references to human cells are to...

SCHEDULE 3ZA — CIRCUMSTANCES IN WHICH OFFER OF COUNSELLING  
REQUIRED AS CONDITION OF LICENCE FOR  
TREATMENT

Part 1 — KINDS OF TREATMENT IN RELATION TO WHICH COUNSELLING  
MUST BE OFFERED

- 1 The treatment services involve the use of the gametes of...
- 2 The treatment services involve the use of any embryo the...
- 3 The treatment services involve the use of an embryo taken...

Part 2 — EVENTS IN CONNECTION WITH WHICH COUNSELLING MUST BE  
OFFERED

- 4 A man gives the person responsible a notice under paragraph...
- 5 The woman for whom the treatment services are provided gives...
- 6 A woman gives the person responsible notice under paragraph (a)...
- 7 The woman for whom the treatment services are provided gives...

SCHEDULE 3A — SUPPLEMENTARY LICENCE CONDITIONS: HUMAN  
APPLICATION

- A1 For the purposes of this Act, as it applies in...

*Traceability system*

- 1 Licence conditions shall require that all persons to whom a...
- 2 Licence conditions imposed in accordance with paragraph 1 may specify...

*Serious adverse events and serious adverse reactions : Great Britain*

- 3 In relation to Great Britain, licence conditions shall require such—...

*Serious adverse events and serious adverse reactions: Northern Ireland*

- 3A In relation to Northern Ireland, licence conditions shall require such—...

*Third party agreements and termination of licensed activities*

- 4 For the purpose of securing compliance with the requirements of...

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*Requirements for procurement of gametes and embryos*

- 5 Licence conditions shall require all persons to whom a licence...

*Selection criteria and laboratory tests required for donors of reproductive cells*

- 6 In relation to partner-donated sperm which is not intended to...  
 7 In relation to donations of gametes or embryos other than...  
 8 Licence conditions shall require that the laboratory tests required by...

*Donation and procurement procedures and reception at the tissue establishment*

- 9 In relation to— (a) donation and procurement procedures, and

*Requirements for holding a licence under paragraph 1, 1A or 2 of Schedule 2*

- 10 Licence conditions shall require compliance with the requirements laid down...

*Requirements for holding a licence for gametes and embryo preparation processes*

- 11 In respect of gametes and embryos preparation processes, licence conditions...

*Modifications to the first, second and third Directives*

- 11A (1) The modifications to the first Directive are as follows....  
 11B (1) The modifications to the second Directive are as follows....  
 11C (1) The modifications to the third Directive are as follows....

*Interpretation of this Schedule*

- 12 In this Schedule, “ partner-created embryos ” means embryos created...

SCHEDULE 3AA — Requirements where gametes or embryos imported from third country

- A1 For the purposes of this Act, as it applies in...

*Directions*

- 1 A direction given under section 24(4AA) must require the person...  
 2 A direction given under section 24(4AB) must require the person...  
 3 The following requirements must be specified in directions under section...

*Modifications to the fourth Directive*

- 3A (1) The modifications to the fourth Directive are as follows....

*Interpretation of this Schedule*

- 4 In this Schedule— “ changes of circumstances ” means any changes in...

SCHEDULE 3B — Inspection, entry, search and seizure

*Inspection of statutory records*

- 1 (1) A duly authorised person may require a person to...



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*Inspection of documents held by an importing licensee*

1A (1) This paragraph applies in relation to Northern Ireland where—...

*Arranging inspections*

2 (1) Where a person— (a) makes an enquiry to the...

*Entry and inspection of premises*

3 (1) A duly authorised person may at any reasonable time...

4 (1) Subject to sub-paragraph (2), the Authority shall arrange for...

4A (1) This paragraph applies in relation to Northern Ireland where—...

*Entry and search in connection with suspected offence*

5 (1) If a justice of the peace is satisfied on...

*Execution of warrants*

6 (1) Entry and search under a warrant under paragraph 5...

*Seizure in the course of inspection or search*

7 (1) A duly authorised person entering and inspecting premises under...

*Supplementary provision*

8 (1) Power under this Schedule to enter and inspect or...

9 (1) A person's right to exercise a power under this...

*Enforcement*

10 A person who— (a) fails without reasonable excuse to comply...

*Interpretation*

11 In this Schedule— (a) “duly authorised person”, in the context...

SCHEDULE 4 — Minor and Consequential Amendments

*Family Law Reform Act 1969 (c. 46.)*

1 In section 25 of the Family Law Reform Act 1969...

*Social Security Act 1975 (c. 14.)*

2 Minor and Consequential Amendments

*Social Security (Northern Ireland) Act 1975 (c. 15.)*

3 Minor and Consequential Amendments

*Adoption Act 1976 (c. 36.)*

4 Minor and Consequential Amendments

*Family Law Reform (Northern Ireland) Order 1977 (S. I. 1977/1250 (N. I. 17))*

5 In Article 13 of the Family Law Reform (Northern Ireland)...

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*Adoption (Scotland) Act 1978 (c. 28. )*

6 . . . . .

*Adoption (Northern Ireland) Order 1987 (S. I. 1987/2203 (N. I. 22))*

7 In Article 15 of the Adoption (Northern Ireland) Order 1987...

*Human Organ Transplants Act 1989 (c. 31. )*

8 Minor and Consequential Amendments

*Human Organ Transplants (Northern Ireland) Order 1989 (S.I. 1989/2408 (N.I. 21))*

9 Minor and Consequential Amendments

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**Changes and effects yet to be applied to :**

- s. 1A words substituted by S.I. 2019/482 reg. 2(2)
- s. 2(1) words omitted by S.I. 2019/482 reg. 2(3)(a)(i)
- s. 2(2B) words substituted by S.I. 2019/482 reg. 2(3)(b)
- s. 2B(4) substituted by S.I. 2019/482 reg. 2(5)
- s. 8A omitted by S.I. 2019/482 reg. 2(7)
- s. 8ZB omitted by S.I. 2019/482 reg. 2(6)
- s. 14A(3) omitted by S.I. 2019/482 reg. 2(8)
- s. 14A(4) omitted by S.I. 2019/482 reg. 2(8)
- s. 15A(3) omitted by S.I. 2019/482 reg. 2(9)
- s. 15B omitted by S.I. 2019/482 reg. 2(10)
- s. 15C omitted by S.I. 2019/482 reg. 2(11)
- s. 24(3A)(c) omitted by S.I. 2019/482 reg. 2(12)(a)(i)
- s. 24(4AD) words substituted by S.I. 2019/482 reg. 2(12)(b)
- s. 24(12) words substituted by S.I. 2019/482 reg. 2(12)(c)
- s. 24(12A) omitted by S.I. 2019/482 reg. 2(12)(d)
- s. 24(14) omitted by S.I. 2019/482 reg. 2(12)(d)
- s. 33A(1) excluded by S.I. 2009/2232 art. 4
- s. 33A(2)(m) omitted by S.I. 2019/482 reg. 2(13)
- Sch. 3A para. 3 words substituted by S.I. 2019/482 reg. 2(17)(b)
- Sch. 3B para. 4A omitted by S.I. 2019/482 reg. 2(19)(b)
- Sch. 3B para. 9(4) omitted by S.I. 2019/482 reg. 2(19)(c)
- Sch. 3B para. 9(5) omitted by S.I. 2019/482 reg. 2(19)(c)
- Sch. 3B para. 1A and cross-heading omitted by S.I. 2019/482 reg. 2(19)(a)
- Sch. 3AA para. 2(c) substituted by S.I. 2019/482 reg. 2(18)(b)