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 application of the Single European Code
8A Duty of Authority to communicate with competent authorities of other EEA states
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 Inspections of third country premises etc
15C Third country premises and third country suppliers: report of inspections etc

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.
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.
Human Fertilisation and Embryology Act 1990 (c. 37)

Changes to legislation: Human Fertilisation and Embryology Act 1990 is up to date with all changes known to be in force on or before 30 March 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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


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

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.

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...

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, and any notice under...

2 (1) A consent to the use of any embryo must...

Procedure for giving consent

3 (1) Before a person gives consent under this Schedule—
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...

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...

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...
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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

— 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

3 Licence conditions shall require such— (a) systems to report, investigate,...

— THIRD PARTY AGREEMENTS AND TERMINATION OF LICENSED ACTIVITIES

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

— 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...

— 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

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...
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...

Inspection of documents held by an importing licensee

1A (1) This paragraph applies where— (a) qualifying gametes or embryos...

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 where— (a) any activity governed by...

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)...

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 inserted by S.I. 2019/482 reg. 2(3)(a)(ii)
- 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(3A)(d) words substituted by S.I. 2019/482 reg. 2(12)(a)(ii)
- 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)
- s. 45(4A) words inserted by S.I. 2019/482 reg. 2(15)
- s. 47 entry inserted by S.I. 2019/482 reg. 2(16)(b)
- s. 47 entry omitted by S.I. 2019/482 reg. 2(16)(a)
- 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)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- s. 2A(1A) inserted by S.I. 2019/482 reg. 2(4)
- s. 42A inserted by S.I. 2019/482 reg. 2(14)
- Sch. 3A para. A1 inserted by S.I. 2019/482 reg. 2(17)(a)
- Sch. 3A para. 11A-11C and cross-heading inserted by S.I. 2019/482 reg. 2(17)(c)
- Sch. 3AA para. A1 and cross-heading inserted by S.I. 2019/482 reg. 2(18)(a)
- Sch. 3AA para. 3A and cross-headings inserted by S.I. 2019/482 reg. 2(18)(c)