



# Human Fertilisation and Embryology Act 1990

## 1990 CHAPTER 37

### *Directions and guidance*

#### **23 Directions: general**

- (1) The Authority may from time to time give directions for any purpose for which directions may be given under this Act or directions varying or revoking such directions.
- (2) A person to whom any requirement contained in directions is applicable shall comply with the requirement.
- (3) Anything done by a person in pursuance of directions is to be treated for the purposes of this Act as done in pursuance of a licence.
- (4) Where directions are to be given to a particular person, they shall be given by serving notice of the directions on the person.
- (5) In any other case, directions may be given—
  - (a) in respect of any licence (including a licence which has ceased to have effect), by serving notice of the directions on the person who is or was the person responsible or the nominal licensee, or
  - (b) if the directions appear to the Authority to be general directions or it appears to the Authority that it is not practicable to give notice in pursuance of paragraph (a) above, by publishing the directions in such way as, in the opinion of the Authority, is likely to bring the directions to the attention of the persons to whom they are applicable.
- (6) This section does not apply to directions under section 9(4) of this Act.

## 24 Directions as to particular matters

- (1) If, in the case of any information about persons for whom treatment services were provided, the person responsible does not know that any child was born following the treatment, the period specified in directions by virtue of section 13(4) of this Act shall not expire less than 50 years after the information was first recorded.
- (2) In the case of every licence under paragraph 1 of Schedule 2 to this Act, directions shall require information to be recorded and given to the Authority about each of the matters referred to in section 13(2)(a) to (e) of this Act.
- (3) Directions may authorise, in such circumstances and subject to such conditions as may be specified in the directions, the keeping, by or on behalf of a person to whom a licence applies, of gametes or embryos in the course of their carriage to or from any premises.
- (4) Directions may authorise any person to whom a licence applies to receive gametes or embryos from outside the United Kingdom or to send gametes or embryos outside the United Kingdom in such circumstances and subject to such conditions as may be specified in the directions, and directions made by virtue of this subsection may provide for sections 12 to 14 of this Act to have effect with such modifications as may be specified in the directions.
- (5) A licence committee may from time to time give such directions as are mentioned in subsection (7) below where a licence has been varied or has ceased to have effect (whether by expiry, suspension, revocation or otherwise).
- (6) A licence committee proposing to suspend, revoke or vary a licence may give such directions as are mentioned in subsection (7) below.
- (7) The directions referred to in subsections (5) and (6) above are directions given for the purpose of securing the continued discharge of the duties of the person responsible under the licence concerned (“the old licence”), and such directions may, in particular—
  - (a) require anything kept or information held in pursuance of the old licence to be transferred to the Authority or any other person, or
  - (b) provide for the discharge of the duties in question by any individual, being an individual whose character, qualifications and experience are, in the opinion of the committee, such as are required for the supervision of the activities authorised by the old licence, and authorise those activities to be carried on under the supervision of that individual,but cannot require any individual to discharge any of those duties unless the individual has consented in writing to do so.
- (8) Directions for the purpose referred to in subsection (7)(a) above shall be given to the person responsible under the old licence or, where that person has died or appears to the licence committee to have become unable because of incapacity to discharge the duties in question, to some other person to whom the old licence applies or applied or to the nominal licensee.
- (9) Directions for the purpose referred to in subsection (7)(b) above shall be given to the individual who under the directions is to discharge the duty.
- (10) Where a person who holds a licence dies, anything done subsequently by an individual which that individual would have been authorised to do if the licence had continued in

force shall, until directions are given by virtue of this section, be treated as authorised by a licence.

- (11) Where the Authority proposes to give directions specifying any animal for the purposes of paragraph 1(1)(f) or 3(5) of Schedule 2 to this Act, it shall report the proposal to the Secretary of State; and the directions shall not be given until the Secretary of State has laid a copy of the report before each House of Parliament.

## **25 Code of practice**

- (1) The Authority shall maintain a code of practice giving guidance about the proper conduct of activities carried on in pursuance of a licence under this Act and the proper discharge of the functions of the person responsible and other persons to whom the licence applies.
- (2) The guidance given by the code shall include guidance for those providing treatment services about the account to be taken of the welfare of children who may be born as a result of treatment services (including a child's need for a father), and of other children who may be affected by such births.
- (3) The code may also give guidance about the use of any technique involving the placing of sperm and eggs in a woman.
- (4) The Authority may from time to time revise the whole or any part of the code.
- (5) The Authority shall publish the code as for the time being in force.
- (6) A failure on the part of any person to observe any provision of the code shall not of itself render the person liable to any proceedings, but—
- (a) a licence committee shall, in considering whether there has been any failure to comply with any conditions of a licence and, in particular, conditions requiring anything to be "proper" or "suitable", take account of any relevant provision of the code, and
  - (b) a licence committee may, in considering, where it has power to do so, whether or not to vary or revoke a licence, take into account any observance of or failure to observe the provisions of the code.

## **26 Procedure for approval of code**

- (1) The Authority shall send a draft of the proposed first code of practice under section 25 of this Act to the Secretary of State within twelve months of the commencement of section 5 of this Act.
- (2) If the Authority proposes to revise the code or, if the Secretary of State does not approve a draft of the proposed first code, to submit a further draft, the Authority shall send a draft of the revised code or, as the case may be, a further draft of the proposed first code to the Secretary of State.
- (3) Before preparing any draft, the Authority shall consult such persons as the Secretary of State may require it to consult and such other persons (if any) as it considers appropriate.
- (4) If the Secretary of State approves a draft, he shall lay it before Parliament and, if he does not approve it, he shall give reasons to the Authority.

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*Status: This is the original version (as it was originally enacted).*

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- (5) A draft approved by the Secretary of State shall come into force in accordance with directions.