



Human Fertilisation and Embryology Act 1990

1990 CHAPTER 37

Grant, revocation and suspension of licences

16 Grant of licence

- (1) Where application is made to the Authority in a form approved for the purpose by it accompanied by the initial fee, a licence may be granted to any person by a licence committee if the requirements of subsection (2) below are met and any additional fee is paid.
- (2) The requirements mentioned in subsection (1) above are—
 - (a) that the application is for a licence designating an individual as the person under whose supervision the activities to be authorised by the licence are to be carried on,
 - (b) that either that individual is the applicant or—
 - (i) the application is made with the consent of that individual, and
 - (ii) the licence committee is satisfied that the applicant is a suitable person to hold a licence,
 - (c) that the licence committee is satisfied that the character, qualifications and experience of that individual are such as are required for the supervision of the activities and that the individual will discharge the duty under section 17 of this Act,
 - (d) that the licence committee is satisfied that the premises in respect of which the licence is to be granted are suitable for the activities, and
 - (e) that all the other requirements of this Act in relation to the granting of the licence are satisfied.
- (3) The grant of a licence to any person may be by way of renewal of a licence granted to that person, whether on the same or different terms.
- (4) Where the licence committee is of the opinion that the information provided in the application is insufficient to enable it to determine the application, it need not consider

the application until the applicant has provided it with such further information as it may require him to provide.

- (5) The licence committee shall not grant a licence unless a copy of the conditions to be imposed by the licence has been shown to, and acknowledged in writing by, the applicant and (where different) the person under whose supervision the activities are to be carried on.
- (6) In subsection (1) above “initial fee” and “additional fee” mean a fee of such amount as may be fixed from time to time by the Authority with the approval of the Secretary of State and the Treasury, and in determining any such amount, the Authority may have regard to the costs of performing all its functions.
- (7) Different fees may be fixed for different circumstances and fees paid under this section are not repayable.

17 The person responsible

- (1) It shall be the duty of the individual under whose supervision the activities authorised by a licence are carried on (referred to in this Act as the “person responsible”) to secure—
 - (a) that the other persons to whom the licence applies are of such character, and are so qualified by training and experience, as to be suitable persons to participate in the activities authorised by the licence,
 - (b) that proper equipment is used,
 - (c) that proper arrangements are made for the keeping of gametes and embryos and for the disposal of gametes or embryos that have been allowed to perish,
 - (d) that suitable practices are used in the course of the activities, and
 - (e) that the conditions of the licence are complied with.
- (2) References in this Act to the persons to whom a licence applies are to—
 - (a) the person responsible,
 - (b) any person designated in the licence, or in a notice given to the Authority by the person who holds the licence or the person responsible, as a person to whom the licence applies, and
 - (c) any person acting under the direction of the person responsible or of any person so designated.
- (3) References below in this Act to the nominal licensee are to a person who holds a licence under which a different person is the person responsible.

18 Revocation and variation of licence

- (1) A licence committee may revoke a licence if it is satisfied—
 - (a) that any information given for the purposes of the application for the grant of the licence was in any material respect false or misleading,
 - (b) that the premises to which the licence relates are no longer suitable for the activities authorised by the licence,
 - (c) that the person responsible has failed to discharge, or is unable because of incapacity to discharge, the duty under section 17 of this Act or has failed to comply with directions given in connection with any licence, or

- (d) that there has been any other material change of circumstances since the licence was granted.
- (2) A licence committee may also revoke a licence if—
 - (a) it ceases to be satisfied that the character of the person responsible is such as is required for the supervision of those activities or that the nominal licensee is a suitable person to hold a licence, or
 - (b) the person responsible dies or is convicted of an offence under this Act.
- (3) Where a licence committee has power to revoke a licence under subsection (1) above it may instead vary any terms of the licence.
- (4) A licence committee may, on an application by the person responsible or the nominal licensee, vary or revoke a licence.
- (5) A licence committee may, on an application by the nominal licensee, vary the licence so as to designate another individual in place of the person responsible if—
 - (a) the committee is satisfied that the character, qualifications and experience of the other individual are such as are required for the supervision of the activities authorised by the licence and that the individual will discharge the duty under section 17 of this Act, and
 - (b) the application is made with the consent of the other individual.
- (6) Except on an application under subsection (5) above, a licence can only be varied under this section—
 - (a) so far as it relates to the activities authorised by the licence, the manner in which they are conducted or the conditions of the licence, or
 - (b) so as to extend or restrict the premises to which the licence relates.

19 Procedure for refusal, variation or revocation of licence

- (1) Where a licence committee proposes to refuse a licence or to refuse to vary a licence so as to designate another individual in place of the person responsible, the committee shall give notice of the proposal, the reasons for it and the effect of subsection (3) below to the applicant.
- (2) Where a licence committee proposes to vary or revoke a licence, the committee shall give notice of the proposal, the reasons for it and the effect of subsection (3) below to the person responsible and the nominal licensee (but not to any person who has applied for the variation or revocation).
- (3) If, within the period of twenty-eight days beginning with the day on which notice of the proposal is given, any person to whom notice was given under subsection (1) or (2) above gives notice to the committee of a wish to make to the committee representations about the proposal in any way mentioned in subsection (4) below, the committee shall, before making its determination, give the person an opportunity to make representations in that way.
- (4) The representations may be—
 - (a) oral representations made by the person, or another acting on behalf of the person, at a meeting of the committee, and
 - (b) written representations made by the person.
- (5) A licence committee shall—

- (a) in the case of a determination to grant a licence, give notice of the determination to the person responsible and the nominal licensee,
 - (b) in the case of a determination to refuse a licence, or to refuse to vary a licence so as to designate another individual in place of the person responsible, give such notice to the applicant, and
 - (c) in the case of a determination to vary or revoke a licence, give such notice to the person responsible and the nominal licensee.
- (6) A licence committee giving notice of a determination to refuse a licence or to refuse to vary a licence so as to designate another individual in place of the person responsible, or of a determination to vary or revoke a licence otherwise than on an application by the person responsible or the nominal licensee, shall give in the notice the reasons for its decision.

20 Appeal to Authority against determinations of licence committee

- (1) Where a licence committee determines to refuse a licence or to refuse to vary a licence so as to designate another individual in place of the person responsible, the applicant may appeal to the Authority if notice has been given to the committee and to the Authority before the end of the period of twenty-eight days beginning with the date on which notice of the committee's determination was served on the applicant.
- (2) Where a licence committee determines to vary or revoke a licence, any person on whom notice of the determination was served (other than a person who applied for the variation or revocation) may appeal to the Authority if notice has been given to the committee and to the Authority before the end of the period of twenty-eight days beginning with the date on which notice of the committee's determination was served.
- (3) An appeal under this section shall be by way of rehearing by the Authority and no member of the Authority who took any part in the proceedings resulting in the determination appealed against shall take any part in the proceedings on appeal.
- (4) On the appeal—
 - (a) the appellant shall be entitled to appear or be represented,
 - (b) the members of the licence committee shall be entitled to appear, or the committee shall be entitled to be represented, and
 - (c) the Authority shall consider any written representations received from the appellant or any member of the committee and may take into account any matter that could be taken into account by a licence committee,
 and the Authority may make such determination on the appeal as it thinks fit.
- (5) The Authority shall give notice of its determination to the appellant and, if it is a determination to refuse a licence or to refuse to vary a licence so as to designate another individual in place of the person responsible or a determination to vary or revoke a licence, shall include in the notice the reasons for the decision.
- (6) The functions of the Authority on an appeal under this section cannot be discharged by any committee, member or employee of the Authority and, for the purposes of the appeal, the quorum shall not be less than five.

21 Appeals to High Court or Court of Session

Where the Authority determines under section 20 of this Act—

(a) to refuse a licence or to refuse to vary a licence so as to designate another individual in place of the person responsible, or

(b) to vary or revoke a licence,

any person on whom notice of the determination was served may appeal to the High Court or, in Scotland, the Court of Session on a point of law.

22 Temporary suspension of licence

(1) Where a licence committee—

(a) has reasonable grounds to suspect that there are grounds for revoking the licence under section 18 of this Act, and

(b) is of the opinion that the licence should immediately be suspended,

it may by notice suspend the licence for such period not exceeding three months as may be specified in the notice.

(2) Notice under subsection (1) above shall be given to the person responsible or, where the person responsible has died or appears to the licence committee to be unable because of incapacity to discharge the duty under section 17 of this Act, to some other person to whom the licence applies or the nominal licensee and a licence committee may, by a further notice to that person, renew or further renew the notice under subsection (1) above for such further period not exceeding three months as may be specified in the renewal notice.

(3) While suspended under this section a licence shall be of no effect, but application may be made under section 18(5) of this Act by the nominal licensee to designate another individual as the person responsible.