



Human Fertilisation and Embryology Act 1990

1990 CHAPTER 37

Information

31 The Authority's register of information

- (1) The Authority shall keep a register which shall contain any information obtained by the Authority which falls within subsection (2) below.
- (2) Information falls within this subsection if it relates to—
 - (a) the provision of treatment services for any identifiable individual, or
 - (b) the keeping or use of the gametes of any identifiable individual or of an embryo taken from any identifiable woman,or if it shows that any identifiable individual was, or may have been, born in consequence of treatment services.
- (3) A person who has attained the age of eighteen ("the applicant") may by notice to the Authority require the Authority to comply with a request under subsection (4) below, and the Authority shall do so if—
 - (a) the information contained in the register shows that the applicant was, or may have been, born in consequence of treatment services, and
 - (b) the applicant has been given a suitable opportunity to receive proper counselling about the implications of compliance with the request.
- (4) The applicant may request the Authority to give the applicant notice stating whether or not the information contained in the register shows that a person other than a parent of the applicant would or might, but for sections 27 to 29 of this Act, be a parent of the applicant and, if it does show that—
 - (a) giving the applicant so much of that information as relates to the person concerned as the Authority is required by regulations to give (but no other information), or

- (b) stating whether or not that information shows that, but for sections 27 to 29 of this Act, the applicant, and a person specified in the request as a person whom the applicant proposes to marry, would or might be related.
- (5) Regulations cannot require the Authority to give any information as to the identity of a person whose gametes have been used or from whom an embryo has been taken if a person to whom a licence applied was provided with the information at a time when the Authority could not have been required to give information of the kind in question.
- (6) A person who has not attained the age of eighteen (“the minor”) may by notice to the Authority specifying another person (“the intended spouse”) as a person whom the minor proposes to marry require the Authority to comply with a request under subsection (7) below, and the Authority shall do so if—
 - (a) the information contained in the register shows that the minor was, or may have been, born in consequence of treatment services, and
 - (b) the minor has been given a suitable opportunity to receive proper counselling about the implications of compliance with the request.
- (7) The minor may request the Authority to give the minor notice stating whether or not the information contained in the register shows that, but for sections 27 to 29 of this Act, the minor and the intended spouse would or might be related.

32 Information to be provided to Registrar General

- (1) This section applies where a claim is made before the Registrar General that a man is or is not the father of a child and it is necessary or desirable for the purpose of any function of the Registrar General to determine whether the claim is or may be well-founded.
- (2) The Authority shall comply with any request made by the Registrar General by notice to the Authority to disclose whether any information on the register kept in pursuance of section 31 of this Act tends to show that the man may be the father of the child by virtue of section 28 of this Act and, if it does, disclose that information.
- (3) In this section and section 33 of this Act, “the Registrar General” means the Registrar General for England and Wales, the Registrar General of Births, Deaths and Marriages for Scotland or the Registrar General for Northern Ireland, as the case may be.

33 Restrictions on disclosure of information

- (1) No person who is or has been a member or employee of the Authority shall disclose any information mentioned in subsection (2) below which he holds or has held as such a member or employee.
- (2) The information referred to in subsection (1) above is—
 - (a) any information contained or required to be contained in the register kept in pursuance of section 31 of this Act, and
 - (b) any other information obtained by any member or employee of the Authority on terms or in circumstances requiring it to be held in confidence.
- (3) Subsection (1) above does not apply to any disclosure of information mentioned in subsection (2)(a) above made—
 - (a) to a person as a member or employee of the Authority,
 - (b) to a person to whom a licence applies for the purposes of his functions as such,

- (c) so that no individual to whom the information relates can be identified,
 - (d) in pursuance of an order of a court under section 34 or 35 of this Act,
 - (e) to the Registrar General in pursuance of a request under section 32 of this Act, or
 - (f) in accordance with section 31 of this Act.
- (4) Subsection (1) above does not apply to any disclosure of information mentioned in subsection (2)(b) above—
- (a) made to a person as a member or employee of the Authority,
 - (b) made with the consent of the person or persons whose confidence would otherwise be protected, or
 - (c) which has been lawfully made available to the public before the disclosure is made.
- (5) No person who is or has been a person to whom a licence applies and no person to whom directions have been given shall disclose any information falling within section 31(2) of this Act which he holds or has held as such a person.
- (6) Subsection (5) above does not apply to any disclosure of information made—
- (a) to a person as a member or employee of the Authority,
 - (b) to a person to whom a licence applies for the purposes of his functions as such,
 - (c) so far as it identifies a person who, but for sections 27 to 29 of this Act, would or might be a parent of a person who instituted proceedings under section 1A of the Congenital Disabilities (Civil Liability) Act 1976, but only for the purpose of defending such proceedings, or instituting connected proceedings for compensation against that parent,
 - (d) so that no individual to whom the information relates can be identified, or
 - (e) in pursuance of directions given by virtue of section 24(5) or (6) of this Act.
- (7) This section does not apply to the disclosure to any individual of information which—
- (a) falls within section 31(2) of this Act by virtue of paragraph (a) or (b) of that subsection, and
 - (b) relates only to that individual or, in the case of an individual treated together with another, only to that individual and that other.
- (8) At the end of Part IV of the Data Protection Act 1984 (Exemptions) there is inserted—

“35A Information about human embryos, etc

Personal data consisting of information showing that an identifiable individual was, or may have been, born in consequence of treatment services (within the meaning of the Human Fertilisation and Embryology Act 1990) are exempt from the subject access provisions except so far as their disclosure under those provisions is made in accordance with section 31 of that Act (the Authority’s register of information).”

34 Disclosure in interests of justice

- (1) Where in any proceedings before a court the question whether a person is or is not the parent of a child by virtue of sections 27 to 29 of this Act falls to be determined, the court may on the application of any party to the proceedings make an order requiring the Authority—

- (a) to disclose whether or not any information relevant to that question is contained in the register kept in pursuance of section 31 of this Act, and
 - (b) if it is, to disclose so much of it as is specified in the order,
- but such an order may not require the Authority to disclose any information falling within section 31(2)(b) of this Act.
- (2) The court must not make an order under subsection (1) above unless it is satisfied that the interests of justice require it to do so, taking into account—
 - (a) any representations made by any individual who may be affected by the disclosure, and
 - (b) the welfare of the child, if under 18 years old, and of any other person under that age who may be affected by the disclosure.
 - (3) If the proceedings before the court are civil proceedings, it—
 - (a) may direct that the whole or any part of the proceedings on the application for an order under subsection (2) above shall be heard in camera, and
 - (b) if it makes such an order, may then or later direct that the whole or any part of any later stage of the proceedings shall be heard in camera.
 - (4) An application for a direction under subsection (3) above shall be heard in camera unless the court otherwise directs.

35 Disclosure in interests of justice: congenital disabilities, etc

- (1) Where for the purpose of instituting proceedings under section 1 of the Congenital Disabilities (Civil Liability) Act 1976 (civil liability to child born disabled) it is necessary to identify a person who would or might be the parent of a child but for sections 27 to 29 of this Act, the court may, on the application of the child, make an order requiring the Authority to disclose any information contained in the register kept in pursuance of section 31 of this Act identifying that person.
- (2) Where, for the purposes of any action for damages in Scotland (including any such action which is likely to be brought) in which the damages claimed consist of or include damages or solatium in respect of personal injury (including any disease and any impairment of physical or mental condition), it is necessary to identify a person who would or might be the parent of a child but for sections 27 to 29 of this Act, the court may, on the application of any party to the action or, if the proceedings have not been commenced, the prospective pursuer, make an order requiring the Authority to disclose any information contained in the register kept in pursuance of section 31 of this Act identifying that person.
- (3) Subsections (2) to (4) of section 34 of this Act apply for the purposes of this section as they apply for the purposes of that.
- (4) After section 4(4) of the Congenital Disabilities (Civil Liability) Act 1976 there is inserted—
 - “(4A) In any case where a child carried by a woman as the result of the placing in her of an embryo or of sperm and eggs or her artificial insemination is born disabled, any reference in section 1 of this Act to a parent includes a reference to a person who would be a parent but for sections 27 to 29 of the Human Fertilisation and Embryology Act 1990.”.