

SCHEDULES

SCHEDULE 3

CONSENTS TO USE ^[F1]OR STORAGE OF GAMETES, EMBRYOS OR HUMAN ADMIXED EMBRYOS ETC

Textual Amendments

- F1** Words in Sch. 3 heading substituted (1.10.2009) by [Human Fertilisation and Embryology Act 2008](#) (c. 22), s. 68(2), [Sch. 3 para. 2](#); S.I. 2009/2232, art. 2(w)

Commencement Information

- I1** Schedule 3 wholly in force at 1.8.1991 see s. 49(2) and [S.I. 1991/1400, art. 2\(2\)](#)

^[F1]Cases where consent not required for storage

Textual Amendments

- F1** Sch. 3 paras. 9-11 and cross-heading inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008](#) (c. 22), s. 68(2), [Sch. 3 para. 12](#); S.I. 2009/2232, art. 2(w)

- 10 (1) The gametes of a person (“P”) may be kept in storage without P’s consent if the following conditions are met.
- (2) Condition A is that the gametes are lawfully taken from or provided by P after P has attained the age of 16 years.
- (3) Condition B is that, before the gametes are first stored, a registered medical practitioner certifies in writing that P is expected to undergo medical treatment and that in the opinion of the registered medical practitioner—
- the treatment is likely to cause a significant impairment of P’s fertility,
 - P lacks capacity to consent to the storage of the gametes,
 - P is likely at some time to have that capacity, and
 - the storage of the gametes is in P’s best interests.
- (4) Condition C is that, at the time when the gametes are first stored, P lacks capacity to consent to their storage.
- (5) Condition D is that P has not subsequently, at a time when P has capacity to give a consent under this Schedule—
- given consent to the storage of the gametes, or
 - given written notice to the person keeping the gametes that P does not wish them to continue to be stored.
- (6) In relation to Scotland—

Changes to legislation: *There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Paragraph 10. (See end of Document for details)*

- (a) references in sub-paragraphs (3) and (4) to P lacking capacity to consent are to be read as references to P being incapable, within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000, of giving such consent,
- (b) the references in sub-paragraphs (3) and (5) to P having capacity are to be read as references to P not being so incapable, and
- (c) that Act applies to the storage of gametes under this paragraph to the extent specified in section 84A of that Act.]

Changes to legislation:

There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Paragraph 10.