

## SCHEDULES

## SCHEDULE 3

CONSENTS TO USE <sup>[F1]</sup>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\(2\)](#)

*<sup>[F1]</sup>Conditions for grant of exemption in paragraph 20***Textual Amendments**

- F1** Sch. 3 paras. 15-21 and cross-headings inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), s. 68(2), [Sch. 3 para. 14](#); S.I. 2009/2232, art. 2(w)

- 21 (1) A licence may not authorise the application of paragraph 20 unless the Authority is satisfied—
- (a) that there are reasonable grounds for believing that scientific research will be adversely affected to a significant extent if the only human cells that can be used to bring about the creation *in vitro* of embryos or human admixed embryos for use for the purposes of the project of research are—
    - (i) human cells in respect of which there is an effective consent to their use to bring about the creation *in vitro* of embryos or human admixed embryos for use for those purposes, or
    - (ii) human cells which by virtue of paragraph 16 can be used without such consent, and
  - (b) that any of the following conditions is met in relation to each of the persons whose human cells are qualifying cells which are to be used for the purposes of the project of research.
- (2) Condition A is that—
- (a) it is not reasonably possible for the person responsible under the licence (“R”) to identify the person falling within sub-paragraph (1)(b) (“P”), and
  - (b) where any information that relates to P (without identifying P or enabling P to be identified) is available to R, that information does not suggest that P would have objected to the use of P’s human cells to bring about the creation *in vitro* of an embryo or human admixed embryo for use for the purposes of the project.

---

*Changes to legislation: There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Paragraph 21. (See end of Document for details)*

---

- (3) Condition B is that—
- (a) the person falling within sub-paragraph (1)(b) (“P”) is dead or the person responsible under the licence (“R”) believes on reasonable grounds that P is dead,
  - (b) the information relating to P that is available to R does not suggest that P would have objected to the use of P's human cells to bring about the creation *in vitro* of an embryo or human admixed embryo for use for the purposes of the project, and
  - (c) a person who stood in a qualifying relationship to P immediately before P died (or is believed to have died) has given consent in writing to the use of P's human cells to bring about the creation *in vitro* of an embryo or human admixed embryo for use for the purposes of the project.
- (4) Condition C is that—
- (a) the person responsible under the licence (“R”) has taken all reasonable steps to contact—
    - (i) the person falling within sub-paragraph (1)(b) (“P”), or
    - (ii) in a case where P is dead or R believes on reasonable grounds that P is dead, persons who could give consent for the purposes of sub-paragraph (3)(c),
 but has been unable to do so, and
  - (b) the information relating to P that is available to R does not suggest that P would have objected to the use of P's human cells to bring about the creation *in vitro* of an embryo or human admixed embryo for use for the purposes of the project.
- (5) The HTA consent provisions apply in relation to consent for the purposes of sub-paragraph (3)(c) as they apply in relation to consent for the purposes of section 3(6)(c) of the Human Tissue Act 2004; and for the purposes of this sub-paragraph the HTA consent provisions are to be treated as if they extended to Scotland.
- (6) In sub-paragraph (5) “the HTA consent provisions” means subsections (4), (5), (6), (7) and (8)(a) and (b) of section 27 of the Human Tissue Act 2004.
- (7) In this paragraph references to the person responsible under the licence are to be read, in a case where an application for a licence is being made, as references to the person who is to be the person responsible.
- (8) Paragraphs 1 to 4 of this Schedule do not apply in relation to a consent given for the purposes of sub-paragraph (3)(c).]

**Changes to legislation:**

There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Paragraph 21.