

These notes refer to the Human Fertilisation and Embryology (Deceased Fathers) Act 2003 (c.24) which received Royal Assent on 18 September 2003

HUMAN FERTILISATION AND EMBRYOLOGY (DECEASED FATHERS) ACT 2003

EXPLANATORY NOTES

BACKGROUND

3. This Act addresses the situation of mothers who have conceived children, after the death of their husbands or partners, using assisted conception techniques (commonly called fertility treatment). These women have been unable to register their deceased husband or partner as the father on the child's birth certificate as a result of the provisions of section 28(6) of the Human Fertilisation and Embryology Act 1990 ("the 1990 Act"). In proceedings brought by children conceived in these circumstances, the High Court declared in March 2003 that this restriction was incompatible with the claimants' right under Article 8 of the European Convention of Human Rights and/or Article 8 read in conjunction with Article 14. The Act also implements the recommendation of Professor Sheila McLean, Professor of Law and Ethics in Medicine at the University of Glasgow, made in her report "Review of the Common Law Provisions relating to the Removal of Gametes and of the Consent Provisions of the Human Fertilisation and Embryology Act 1990" (July 1998) that children born in these circumstances should have a symbolic acknowledgement of their father on their birth certificates.