



# Human Fertilisation and Embryology Act 2008

## CHAPTER 22

### HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

#### PART 1

##### AMENDMENTS OF THE HUMAN FERTILISATION AND EMBRYOLOGY ACT 1990

###### *Principal terms used in the 1990 Act*

- 1 Meaning of “embryo” and “gamete”
- 2 Meaning of “nuclear DNA”

###### *Activities governed by the 1990 Act*

- 3 Prohibitions in connection with embryos
- 4 Prohibitions in connection with genetic material not of human origin

###### *The Human Fertilisation and Embryology Authority*

- 5 Membership of Authority: disqualification and tenure
- 6 Additional general functions of Authority
- 7 Duties in relation to carrying out its functions
- 8 Power to contract out functions etc.
- 9 Power to assist other public authorities
- 10 Power to delegate and establish committees

###### *Scope of licences*

- 11 Activities that may be licensed

*Licence conditions*

- 12 General conditions of licences
- 13 Consent to use or storage of gametes, embryos, human admixed embryos etc.
- 14 Conditions of licences for treatment
- 15 Conditions of storage licences

*Grant, revocation and suspension of licences*

- 16 Grant of licence
- 17 The person responsible
- 18 Revocation and variation of licence
- 19 Procedure for refusal, variation or revocation of licence
- 20 Power to suspend licence
- 21 Reconsideration and appeals

*Directions and guidance*

- 22 Directions
- 23 Code of practice

*Information*

- 24 Register of information
- 25 Restrictions on disclosure of information

*Mitochondrial donation*

- 26 Mitochondrial donation

*Miscellaneous*

- 27 Fees
- 28 Inspection, entry, search and seizure
- 29 Offences under the 1990 Act
- 30 Regulations under the 1990 Act
- 31 Power to make consequential provision
- 32 Orders under the 1990 Act

**PART 2****PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION***Meaning of “mother”*

- 33 Meaning of “mother”

*Application of sections 35 to 47*

- 34 Application of sections 35 to 47

*Meaning of “father”*

- 35 Woman married at time of treatment
- 36 Treatment provided to woman where agreed fatherhood conditions apply
- 37 The agreed fatherhood conditions

- 38 Further provision relating to sections 35 and 36
- 39 Use of sperm, or transfer of embryo, after death of man providing sperm
- 40 Embryo transferred after death of husband etc. who did not provide sperm
- 41 Persons not to be treated as father

*Cases in which woman to be other parent*

- 42 Woman in civil partnership at time of treatment
- 43 Treatment provided to woman who agrees that second woman to be parent
- 44 The agreed female parenthood conditions
- 45 Further provision relating to sections 42 and 43
- 46 Embryo transferred after death of civil partner or intended female parent
- 47 Woman not to be other parent merely because of egg donation

*Effect of sections 33 to 47*

- 48 Effect of sections 33 to 47

*References to parties to marriage or civil partnership*

- 49 Meaning of references to parties to a marriage
- 50 Meaning of references to parties to a civil partnership

*Further provision about registration by virtue of section 39, 40 or 46*

- 51 Meaning of “relevant register of births”
- 52 Late election by mother with consent of Registrar General

*Interpretation of references to father etc. where woman is other parent*

- 53 Interpretation of references to father etc.

*Parental orders*

- 54 Parental orders
- 55 Parental orders: supplementary provision

*Amendments of enactments*

- 56 Amendments relating to parenthood in cases involving assisted reproduction

*General*

- 57 Repeals and transitional provision relating to Part 2
- 58 Interpretation of Part 2

**PART 3**

MISCELLANEOUS AND GENERAL

*Miscellaneous*

- 59 Surrogacy arrangements
- 60 Exclusion of embryos from definition of “organism” in Part 6 of the EPA 1990

*General*

- 61 Orders and regulations: general provisions
- 62 Orders and regulations: parliamentary control
- 63 Meaning of “the 1990 Act”
- 64 Power to make consequential and transitional provision etc.
- 65 Minor and consequential amendments
- 66 Repeals and revocations
- 67 Extent
- 68 Commencement
- 69 Short title

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**SCHEDULES**

**SCHEDULE 1** — Amendments to Schedule 1 to the 1990 Act relating to membership of the Authority

- 1 Schedule 1 to the 1990 Act (supplementary provision about Authority)...
- 2 After paragraph 4 (appointment of members) insert— (1) A person (“P”) is disqualified for being appointed as...
- 3 In paragraph 5— (a) after sub-paragraph (4), insert—

**SCHEDULE 2** — Activities that may be licensed under the 1990 Act

- 1 Introductory
- 2 Licences for treatment
- 3 Embryo testing and sex selection
- 4 Licences for non-medical fertility services
- 5 Licences for storage
- 6 Licences for research

**SCHEDULE 3** — Consent to use or storage of gametes, embryos or human admixed embryos etc.

- 1 Introductory
- 2 In the title to that Schedule, for “OF GAMETES OR...”
- 3 General requirements as to consent
- 4 Terms of consent
- 5 Information to be given to a person giving consent
- 6 Variation and withdrawal of consent
- 7 Withdrawal of consent to storage: notification of interested persons
- 8 Application of consent provisions to non-medical fertility services
- 9 In vitro fertilisation and subsequent use of embryo
- 10 Use of embryos obtained by lavage etc.
- 11 Consents in relation to storage
- 12 After paragraph 8 insert— Cases where consent not required for...
- 13 Creation, use and storage of human admixed embryos
- 14 Cases where human cells etc. can be used without consent of person providing them
- 15 Interpretation

**SCHEDULE 4** — Schedule inserted in the 1990 Act as Schedule 3ZA

**SCHEDULE 5** — Schedule inserted in the 1990 Act as Schedule 3B

SCHEDULE 6 — Amendments relating to parenthood in cases involving assisted reproduction

Part 1 — GENERAL

- 1 Population (Statistics) Act 1938 (c. 12)
- 2 Births and Deaths Registration Act 1953 (c. 20)
- 3 In section 2 of the Births and Deaths Registration Act...
- 4 In section 9(4) of the Births and Deaths Registration Act...
- 5 (1) Section 10 of the Births and Deaths Registration Act...
- 6 For section 10ZA of the Births and Deaths Registration Act...
- 7 (1) Section 10A of the Births and Deaths Registration Act...
- 8 In section 13 of the Births and Deaths Registration Act...
- 9 (1) Section 14 of the Births and Deaths Registration Act...
- 10 (1) Section 29A of the Births and Deaths Registration Act...
- 11 Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58)
- 12 At the end of section 5 of the Registration of...
- 13 Family Law Reform Act 1969 (c. 46)
- 14 Congenital Disabilities (Civil Liability) Act 1976 (c. 28)
- 15 In section 4 of the Congenital Disabilities (Civil Liability) Act...
- 16 Legitimacy Act 1976 (c. 31)
- 17 In section 3 of the Legitimacy Act 1976 (legitimation by...
- 18 In section 9 of the Legitimacy Act 1976 (re-registration of...
- 19 In section 10 of the Legitimacy Act 1976 (interpretation), in...
- 20 Magistrates' Courts Act 1980 (c. 43)
- 21 Supreme Court Act 1981 (c. 54)
- 22 British Nationality Act 1981 (c. 61)
- 23 Family Law Act 1986 (c. 55)
- 24 Family Law Reform Act 1987 (c. 42)
- 25 (1) Section 18 of the Family Law Reform Act 1987...
- 26 Children Act 1989 (c. 41)
- 27 After section 4 of the Children Act 1989 insert— Acquisition...
- 28 (1) Section 12 of the Children Act 1989 (residence orders...
- 29 In section 91 of the Children Act 1989 (effect and...
- 30 In section 104 of the Children Act 1989 (regulations and...
- 31 In section 105 of the Children Act 1989 (interpretation), in...
- 32 (1) Schedule 1 to the Children Act 1989 (financial provision...
- 33 Human Fertilisation and Embryology Act 1990 (c. 37)
- 34 In section 34 of the 1990 Act (disclosure in the...
- 35 (1) Section 35 of the 1990 Act (disclosure of information...
- 36 Child Support Act 1991 (c. 48)
- 37 Family Law Act 1996 (c. 27)
- 38 Access to Justice Act 1999 (c. 22)
- 39 Adoption and Children Act 2002 (c. 38)
- 40 Mental Capacity Act 2005 (c. 9)

Part 2 — ENACTMENTS RELATING ONLY TO SCOTLAND

- 41 Children and Young Persons (Scotland) Act 1937 (c. 37)
- 42 Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49)
- 43 For section 18ZA of the Registration of Births, Deaths and...
- 44 After section 18A of the Registration of Births, Deaths and...
- 45 In section 20 of the Registration of Births, Deaths and...
- 46 Family Law (Scotland) Act 1985 (c. 37)
- 47 In section 27(1) of the Family Law (Scotland) Act 1985...

- 48 Children (Scotland) Act 1995 (c. 36)
- 49 In section 2(1) of the Children (Scotland) Act 1995 (parental...)
- 50 (1) Section 3 of the Children (Scotland) Act 1995 (provisions...)
- 51 After section 4 of the Children (Scotland) Act 1995 insert—...
- 52 (1) Section 11 of the Children (Scotland) Act 1995 (court...)
- 53 In section 12(4)(b) of the Children (Scotland) Act 1995 (meaning...)
- 54 In section 15(1) of the Children (Scotland) Act 1995 (interpretation...)
- 55 Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)
- 56 Adoption and Children (Scotland) Act 2007 (asp 4)
- Part 3 — ENACTMENTS RELATING ONLY TO NORTHERN IRELAND
- 57 Legitimacy Act (Northern Ireland) 1928 (c. 5 (N.I.))
- 58 (1) Section 8 of the Legitimacy Act (Northern Ireland) 1928...
- 59 In section 11 of the Legitimacy Act (Northern Ireland) 1928...
- 60 Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041 (N.I. 14))
- 61 After Article 14 of the Births and Deaths Registration (Northern...)
- 62 For Article 14A of the Births and Deaths Registration (Northern...)
- 63 (1) Article 18 of the Births and Deaths Registration (Northern...)
- 64 (1) Article 19 of the Births and Deaths Registration (Northern...)
- 65 In Article 20 of the Births and Deaths Registration (Northern...)
- 66 In Article 37 of the Births and Deaths Registration (Northern...)
- 67 Family Law Reform (Northern Ireland) Order 1977 (S.I. 1977/1250 (N.I. 17))
- 68 Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))
- 69 Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23))
- 70 Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))
- 71 (1) Article 5 of the Children (Northern Ireland) Order 1995...
- 72 (1) Article 7 of the Children (Northern Ireland) Order 1995...
- 73 In Article 8 of the Children (Northern Ireland) Order 1995...
- 74 (1) Article 12 of the Children (Northern Ireland) Order 1995...
- 75 (1) Article 155 of the Children (Northern Ireland) Order 1995...
- 76 In Article 179 of the Children (Northern Ireland) Order 1995...
- 77 (1) Schedule 1 to the Children (Northern Ireland) Order 1995...
- 78 (1) Paragraph 1 of Schedule 6 to the Children (Northern...)
- 79 Family Homes and Domestic Violence (Northern Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6))

#### SCHEDULE 7 — Minor and consequential amendments

- 1 Congenital Disabilities (Civil Liability) Act 1976 (c. 28)
- 2 Human Fertilisation and Embryology Act 1990 (c. 37)
- 3 In section 7 of the 1990 Act (reports to Secretary...)
- 4 Omit section 10 of the 1990 Act (licensing procedure).
- 5 In section 13A of the 1990 Act (conditions of licences...)
- 6 In section 14A of the 1990 Act (conditions of licences:...
- 7 In section 15 of the 1990 Act (conditions of research...)
- 8 Omit section 22 of the 1990 Act (temporary suspension of...)
- 9 In section 23 of the 1990 Act (directions: general)—
- 10 (1) Section 31A of the 1990 Act (the Authority's register...)
- 11 In section 32 of the 1990 Act (information to be...)
- 12 In section 34 of the 1990 Act (disclosure in the...)
- 13 In section 47 of the 1990 Act (index)—
- 14 In section 48 of the 1990 Act (application to Northern...)
- 15 In Schedule 1 to the 1990 Act (the Authority: supplementary...)

- 16 Age of Legal Capacity (Scotland) Act 1991 (c. 50)
- 17 Children (Scotland) Act 1995 (c. 36)
- 18 Adults with Incapacity (Scotland) Act 2000 (asp 4)
- 19 Criminal Justice and Police Act 2001 (c. 16)
- 20 In section 66 of the Criminal Justice and Police Act...
- 21 In Schedule 1 to the Criminal Justice and Police Act...
- 22 Human Tissue Act 2004 (c. 30)
- 23 In section 14 of the Human Tissue Act 2004 (remit...
- 24 In section 54 of the Human Tissue Act 2004 (general...
- 25 Mental Capacity Act 2005 (c. 9)

SCHEDULE 8 — Repeals and revocations

Part 1 — REPEALS

Part 2 — REVOCATIONS