

HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Amendments of Human Fertilisation and Embryology Act 1990

Section 13: Consent to use or storage of gametes, embryos and human admixed embryos etc.

Variation and withdrawal of consent

77. Paragraph 4 of Schedule 3 to the 1990 Act requires that a person withdrawing their consent to the storage and/or use of gametes or embryos gives notice of this to the establishment holding the gametes or embryos. New paragraph 1(1) of Schedule 3 requires this notice to be provided in writing and signed by the person withdrawing consent.
78. **Paragraph 7** of Schedule 3 to the Act inserts new paragraph 4A to Schedule 3 into the 1990 Act and introduces a “cooling off period” where one person in a couple seeking fertility treatment withdraws their consent to the storage of an embryo or, where donated gametes are used, where the gamete donor withdraws consent. This provision does not alter the requirement that the consent of both parties is required to store the embryos but it is intended to provide a year-long “cooling off” period during which the embryos will not be destroyed unless all interested persons (see paragraph 4A(3)) consent. There is also to be a “cooling off” period where a single woman seeks fertility treatment and the gamete donor or donors withdraw consent.
79. This provision allows embryos to remain lawfully stored while the parties, if they wish, attempt to reach a private resolution on the future of the embryos. If the interested persons do not agree to the embryos being removed from storage or simply do not respond to the notification, the embryos will remain in storage until the one year period expires after which they would be allowed to perish.