



# Human Fertilisation and Embryology Act 2008

## 2008 CHAPTER 22

### PART 1

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

##### *Licence conditions*

VALID FROM 01/10/2009

#### **12 General conditions of licences**

- (1) Section 12 of the 1990 Act (general conditions of licences under that Act) is amended as follows.
- (2) In subsection (1)—
  - (a) in paragraph (c) (condition relating to compliance with Schedule 3 to the Act), omit “or non-medical fertility services”, and
  - (b) in paragraphs (e) and (f) (which relate to the supply of gametes or embryos), for “or embryos” substitute “, embryos or human admixed embryos”.
- (3) In subsection (2)—
  - (a) omit the “and” at the end of paragraph (a), and
  - (b) at the end of paragraph (b) insert “, and
  - (c) every licence under paragraph 3 of that Schedule, so far as authorising activities in connection with the derivation from embryos of stem cells that are intended for human application.”

*Status: Point in time view as at 06/04/2009. This version of this cross heading contains provisions that are not valid for this point in time.*

**Changes to legislation:** *Human Fertilisation and Embryology Act 2008, Cross Heading: Licence conditions is up to date with all changes known to be in force on or before 20 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/10/2009

### **13 Consent to use or storage of gametes, embryos, human admixed embryos etc.**

Schedule 3 contains amendments of Schedule 3 to the 1990 Act (which relates to consent to the use or storage of gametes or embryos).

### **14 Conditions of licences for treatment**

(1) Section 13 of the 1990 Act (conditions of licences for treatment) is amended in accordance with subsections (2) to (4).

(2) In subsection (5)—

- (a) omit “, other than basic partner treatment services,”, and
- (b) for “a father” substitute “supportive parenting”.

(3) For subsection (6) substitute—

“(6) A woman shall not be provided with treatment services of a kind specified in Part 1 of Schedule 3ZA unless she and any man or woman who is to be treated together with her have been given a suitable opportunity to receive proper counselling about the implications of her being provided with treatment services of that kind, and have been provided with such relevant information as is proper.

(6A) A woman shall not be provided with treatment services after the happening of any event falling within any paragraph of Part 2 of Schedule 3ZA unless (before or after the event) she and the intended second parent have been given a suitable opportunity to receive proper counselling about the implications of the woman being provided with treatment services after the happening of that event, and have been provided with such relevant information as is proper.

(6B) The reference in subsection (6A) to the intended second parent is a reference to—

- (a) any man as respects whom the agreed fatherhood conditions in section 37 of the Human Fertilisation and Embryology Act 2008 (“the 2008 Act”) are for the time being satisfied in relation to treatment provided to the woman mentioned in subsection (6A), and
- (b) any woman as respects whom the agreed female parenthood conditions in section 44 of the 2008 Act are for the time being satisfied in relation to treatment provided to the woman mentioned in subsection (6A).

(6C) In the case of treatment services falling within paragraph 1 of Schedule 3ZA (use of gametes of a person not receiving those services) or paragraph 3 of that Schedule (use of embryo taken from a woman not receiving those services), the information provided by virtue of subsection (6) or (6A) must include such information as is proper about—

- (a) the importance of informing any resulting child at an early age that the child results from the gametes of a person who is not a parent of the child, and
- (b) suitable methods of informing such a child of that fact.

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(6D) Where the person responsible receives from a person (“X”) notice under section 37(1)(c) or 44(1)(c) of the 2008 Act of X's withdrawal of consent to X being treated as the parent of any child resulting from the provision of treatment services to a woman (“W”), the person responsible—

- (a) must notify W in writing of the receipt of the notice from X, and
- (b) no person to whom the licence applies may place an embryo or sperm and eggs in W, or artificially inseminate W, until W has been so notified.

(6E) Where the person responsible receives from a woman (“W”) who has previously given notice under section 37(1)(b) or 44(1)(b) of the 2008 Act that she consents to another person (“X”) being treated as a parent of any child resulting from the provision of treatment services to W—

- (a) notice under section 37(1)(c) or 44(1)(c) of the 2008 Act of the withdrawal of W's consent, or
- (b) a notice under section 37(1)(b) or 44(1)(b) of the 2008 Act in respect of a person other than X,

the person responsible must take reasonable steps to notify X in writing of the receipt of the notice mentioned in paragraph (a) or (b).”

(4) After subsection (7) insert—

“(8) Subsections (9) and (10) apply in determining any of the following—

- (a) the persons who are to provide gametes for use in pursuance of the licence in a case where consent is required under paragraph 5 of Schedule 3 for the use in question;
- (b) the woman from whom an embryo is to be taken for use in pursuance of the licence, in a case where her consent is required under paragraph 7 of Schedule 3 for the use of the embryo;
- (c) which of two or more embryos to place in a woman.

(9) Persons or embryos that are known to have a gene, chromosome or mitochondrion abnormality involving a significant risk that a person with the abnormality will have or develop—

- (a) a serious physical or mental disability,
- (b) a serious illness, or
- (c) any other serious medical condition,

must not be preferred to those that are not known to have such an abnormality.

(10) Embryos that are known to be of a particular sex and to carry a particular risk, compared with embryos of that sex in general, that any resulting child will have or develop—

- (a) a gender-related serious physical or mental disability,
- (b) a gender-related serious illness, or
- (c) any other gender-related serious medical condition,

must not be preferred to those that are not known to carry such a risk.

(11) For the purposes of subsection (10), a physical or mental disability, illness or other medical condition is gender-related if—

- (a) it affects only one sex, or
- (b) it affects one sex significantly more than the other.

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- (12) No embryo appropriated for the purpose mentioned in paragraph 1(1)(ca) of Schedule 2 (training in embryological techniques) shall be kept or used for the provision of treatment services.
- (13) The person responsible shall comply with any requirement imposed on that person by section 31ZD.”
- (5) After Schedule 3 to the 1990 Act insert the Schedule set out in Schedule 4 to this Act (circumstances in which offer of counselling required as condition of licence for treatment).
- (6) In any licence under paragraph 1 of Schedule 2 to the 1990 Act (licences for treatment) that is in force immediately before the commencement of subsection (2)(b) of this section, the condition required by virtue of section 13(5) of that Act is to have effect as the condition required by that provision as amended by subsection (2)(b) of this section.

#### Commencement Information

- II** S. 14 wholly in force at 1.10.2009; s. 14 not in force at Royal Assent see s. 68; s. 14(3)(5) in force and s. 14(1) in force for certain purposes at 6.4.2009 by S.I. 2009/479, art. 4(a) (with Sch.); s. 14 in force at 1.10.2009 otherwise by S.I. 2009/2232, art. 2(d) (with art. 4)

## 15 Conditions of storage licences

- (1) Section 14 of the 1990 Act (conditions of storage licences) is amended as follows.
- (2) In subsection (1)—
  - (a) for “authorising the storage of gametes or embryos” substitute “ authorising the storage of gametes, embryos or human admixed embryos ”,
  - (b) for paragraph (a) substitute—
    - “(a) that gametes of a person shall be placed in storage only if—
      - (i) received from that person,
      - (ii) acquired in circumstances in which by virtue of paragraph 9 or 10 of Schedule 3 that person's consent to the storage is not required, or
      - (iii) acquired from a person to whom a licence or third party agreement applies,
    - (aa) that an embryo taken from a woman shall be placed in storage only if—
      - (i) received from that woman, or
      - (ii) acquired from a person to whom a licence or third party agreement applies,
    - (ab) that an embryo the creation of which has been brought about *in vitro* otherwise than in pursuance of that licence shall be placed in storage only if acquired from a person to whom a licence or third party agreement applies,
    - (ac) that a human admixed embryo the creation of which has been brought about *in vitro* otherwise than in pursuance of that licence shall be placed in storage only if acquired

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- from a person to whom a licence under paragraph 2 or 3 of Schedule 2 applies,”
- (c) after paragraph (b) insert—
    - “(ba) that human admixed embryos shall not be supplied to a person unless that person is a person to whom a licence applies,” and
  - (d) in paragraph (c), for “or embryos” substitute “ , embryos or human admixed embryos ”.
- (3) In subsection (4), for “five years” substitute “ ten years ”.
- (4) After subsection (4) insert—
- “(4A) The statutory storage period in respect of human admixed embryos is such period not exceeding ten years as the licence may specify.”
- (5) In subsection (5)—
- (a) for “or (4)” substitute “ , (4) or (4A) ”, and
  - (b) omit “ or, as the case may be, five years ”.

#### **Commencement Information**

- I2** [S. 15](#) partly in force; [s. 15](#) not in force at Royal Assent see [s. 68](#); [s. 15\(3\)\(5\)](#) in force for certain purposes at 6.4.2009 by [S.I. 2009/479](#), [art. 5\(a\)](#) (with [Sch.](#)); [s. 15](#) in force at 1.10.2009 otherwise by [S.I. 2009/2232](#), [art. 2\(e\)](#)

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