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**Changes to legislation:** Human Fertilisation and Embryology Act 2008, Cross Heading: Children Act 1989 (c. 41) is up to date with all changes known to be in force on or before 19 April 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) [View outstanding changes](#)

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## SCHEDULES

### SCHEDULE 6

#### AMENDMENTS RELATING TO PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

##### PART 1

##### GENERAL

##### *Children Act 1989 (c. 41)*

26 (1) Section 2 of the Children Act 1989 (parental responsibility for children) is amended as follows.

(2) After subsection (1) insert—

“(1A) Where a child—

- (a) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008; or
- (b) has a parent by virtue of section 43 of that Act and is a person to whom section 1(3) of the Family Law Reform Act 1987 applies,

the child's mother and the other parent shall each have parental responsibility for the child.”

(3) After subsection (2) insert—

“(2A) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom section 1(3) of the Family Law Reform Act 1987 applies—

- (a) the mother shall have parental responsibility for the child;
- (b) the other parent shall have parental responsibility for the child if she has acquired it (and has not ceased to have it) in accordance with the provisions of this Act.”

##### **Commencement Information**

**II** Sch. 6 para. 26 wholly in force at 1.9.2009; Sch. 6 para. 26 not in force at Royal Assent see s. 68; Sch. 6 para. 26 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

27 After section 4 of the Children Act 1989 insert—

##### **“4ZA Acquisition of parental responsibility by second female parent**

(1) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom section 1(3) of the

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Family Law Reform Act 1987 applies, that parent shall acquire parental responsibility for the child if—

- (a) she becomes registered as a parent of the child under any of the enactments specified in subsection (2);
- (b) she and the child's mother make an agreement providing for her to have parental responsibility for the child; or
- (c) the court, on her application, orders that she shall have parental responsibility for the child.

(2) The enactments referred to in subsection (1)(a) are—

- (a) paragraphs (a), (b) and (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953;
- (b) paragraphs (a), (b) and (d) of section 18B(1) and sections 18B(3)(a) and 20(1)(a) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and
- (c) sub-paragraphs (a), (b) and (c) of Article 14ZA(3) of the Births and Deaths Registration (Northern Ireland) Order 1976.

(3) The Secretary of State may by order amend subsection (2) so as to add further enactments to the list in that subsection.

(4) An agreement under subsection (1)(b) is also a “parental responsibility agreement”, and section 4(2) applies in relation to such an agreement as it applies in relation to parental responsibility agreements under section 4.

(5) A person who has acquired parental responsibility under subsection (1) shall cease to have that responsibility only if the court so orders.

(6) The court may make an order under subsection (5) on the application—

- (a) of any person who has parental responsibility for the child; or
- (b) with the leave of the court, of the child himself,

subject, in the case of parental responsibility acquired under subsection (1)(c), to section 12(4).

(7) The court may only grant leave under subsection (6)(b) if it is satisfied that the child has sufficient understanding to make the proposed application.”

#### **Commencement Information**

**I2** Sch. 6 para. 27 wholly in force at 1.9.2009; Sch. 6 para. 27 not in force at Royal Assent see s. 68; Sch. 6 para. 27 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

28 (1) Section 12 of the Children Act 1989 (residence orders and parental responsibility) is amended as follows.

(2) After subsection (1) insert—

“(1A) Where the court makes a residence order in favour of a woman who is a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 it shall, if that woman would not otherwise have parental responsibility for the child, also make an order under section 4ZA giving her that responsibility.”

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- (3) In subsection (4)—
- (a) after “(1)” insert “ or (1A) ”,
  - (b) after “4” insert “ or 4ZA ”, and
  - (c) for “father” substitute “ parent ”.

**Commencement Information**

- I3** Sch. 6 para. 28 wholly in force at 1.9.2009; Sch. 6 para. 28 not in force at Royal Assent see s. 68; Sch. 6 para. 28 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 29 In section 91 of the Children Act 1989 (effect and duration of orders)—
- (a) in subsection (7), after “4(1),” insert “ 4ZA(1), ”, and  
“ , 4ZA ”
  - (b) in subsection (8)(a), after “4” insert.

**Commencement Information**

- I4** Sch. 6 para. 29 wholly in force at 1.9.2009; Sch. 6 para. 29 not in force at Royal Assent see s. 68; Sch. 6 para. 29 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 30 In section 104 of the Children Act 1989 (regulations and orders)—
- (a) in subsection (2), after “4(1B),” insert “ 4ZA(3), ”, and
  - (b) in subsection (3), after “4(1B)” insert “ , 4ZA(3) ”.

**Commencement Information**

- I5** Sch. 6 para. 30 wholly in force at 1.9.2009; Sch. 6 para. 30 not in force at Royal Assent see s. 68; Sch. 6 para. 30 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 31 In section 105 of the Children Act 1989 (interpretation), in subsection (1), in the definition of “parental responsibility agreement”, after “sections 4(1)” insert “ , 4ZA(4) ”.

**Commencement Information**

- I6** Sch. 6 para. 31 wholly in force at 1.9.2009; Sch. 6 para. 31 not in force at Royal Assent see s. 68; Sch. 6 para. 31 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 32 (1) Schedule 1 to the Children Act 1989 (financial provision for children) is amended as follows.
- (2) At the end of paragraph 4 insert—

“(5) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, any reference in sub-

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paragraph (2), (3) or (4) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.”

(3) At the end of paragraph 10 insert—

“(8) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in subparagraph (1)(a) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.”

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**Commencement Information**

- I7** Sch. 6 para. 26 wholly in force at 1.9.2009; Sch. 6 para. 26 not in force at Royal Assent see s. 68; Sch. 6 para. 26 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 55(3)(e) and word inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 75\(b\)](#)