

HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Amendments of Human Fertilisation and Embryology Act 1990

Section 8: Power to contract out functions etc.

41. **Section 8** inserts into the 1990 Act new sections 8B and 8C which give the HFEA power to make arrangements with a government department, a public authority or the holder of a public office for the carrying out of any function of the Authority. However, the HFEA will retain responsibility for carrying out its functions. This new flexibility will, for example, permit the Authority to arrange with another public body for that body to conduct inspections on behalf of the HFEA.
42. Similarly, the HFEA will have power to contract-out certain of its functions to a body that is not a public authority. The functions that may be contracted out do not include licensing, the right of entry and power of search and seizure; or the power to make subordinate legislation. New section 8C(1)(a) prevents the contracting out of any function which, by virtue of any enactment, may be exercised only by members of the Authority. The Secretary of State can by order prevent any function of the HFEA from being contracted out (section 8C(1)(c)).
43. **Section 8** also inserts new section 8D which provides the necessary authority for those exercising HFEA functions under an agency arrangement or contract, to receive and disclose information, such as that contained on the HFEA register, where this is necessary or expedient for the purpose of exercising the relevant function.