
STATUTORY INSTRUMENTS

1991 No. 1400

**The Human Fertilisation and Embryology Act 1990
(Commencement No. 3 and Transitional Provisions) Order 1991**

PART III

Transitional Provisions

Continuation of activities carried on before appointed day

3. –

(1) Subject to the provisions of this article, any activity governed by the Act which is being carried on immediately before the appointed day under the supervision of a particular individual, and which could be authorised by a licence, shall be treated during the transitional period as authorised by a licence (having the conditions required by the Act and such other conditions as the Authority⁽¹⁾ may from time to time specify) under which that individual is the person responsible, and in relation to any activity so authorised the Act (including in particular references in the Act to a licence) shall have effect accordingly.

(2) Paragraph (1) above does not apply to any activity carried on under the supervision of any individual unless—

- (a) by the appointed day an application has been made to the Authority in accordance with section 16(1) of the Act for a licence authorising the carrying on of that activity,
- (b) the application is for a licence designating that individual as the person under whose supervision the activities to be authorised by the licence are to be carried on, and either that individual is the applicant or the application is made with the consent of that individual, and
- (c) in the case of an activity which (apart from paragraph (1) above) would require a licence under paragraph 3 of Schedule 2 to the Act, the individual had immediately before the appointed day a licence to carry it on from the body known as the Interim Licensing Authority for Human In Vitro Fertilisation and Embryology.

(3) For the purposes of paragraph (1) above, references in the Act to a person who holds a licence shall be construed during the transitional period as including references to a person who has applied for a licence by the appointed day in accordance with paragraph (2) above, and the Act (including in particular references to the nominal licensee) shall have effect accordingly.

(4) An activity may be carried on by virtue of paragraph (1) above only on the premises in respect of which the application for a licence referred to in paragraph (2) above has been made.

(5) In this article, “the transitional period” in relation to any activity carried on under paragraph (1) above means the period beginning with the appointed day, and ending either one year later or (if sooner) on the date when the application for a licence referred to in paragraph (2) above is finally determined.

(1) The “Authority” is the Human Fertilisation and Embryology Authority established under section 5 of the Act on 7th November 1990 (S.I.1990/2165).

Gametes and embryos already in storage on appointed day

4. –

(1) This article has effect in relation to gametes and embryos in storage immediately before the appointed day, and such gametes and embryos are referred to in this Article as “relevant” gametes and embryos.

(2) The statutory storage period for relevant gametes and embryos shall begin on the appointed day.

(3) In relation to the use or storage of any relevant gametes or embryo, the Act shall have effect as if–

- (a) for the condition specified in section 12(c) of the Act there were substituted the condition that the provisions of paragraph (4) below shall be complied with,
- (b) in section 13(3) of the Act, the reference to a person whose consent is required under Schedule 3 to the Act included a reference to a person whose consent is required by virtue of paragraph (4) below,
- (c) in section 13(6)(a) and (c) of the Act, the references respectively to paragraphs 5 and 7 of Schedule 3 to the Act included references to those paragraphs as applied by paragraph (4) below, and
- (d) in section 14(1)(d) of the Act, the reference to persons whose consent is required under Schedule 3 to the Act included a reference to persons whose consent is required by virtue of paragraph (4) below.

(4) No relevant gametes or embryo shall be–

- (a) used for any purpose unless–
 - (i) in relation to any consent given on or after the appointed day, the provisions of Schedule 3 to the Act apart from paragraph 8 have been complied with, and
 - (ii) in relation to any consent given before the appointed day, the provisions of paragraphs 5 to 7 of that Schedule as modified by paragraph (5) below have been complied with, or
- (b) kept in storage unless paragraph 8 of that Schedule as so modified has been complied with.

(5) Paragraphs 5 to 8 of Schedule 3 to the Act shall apply for the purposes of paragraphs (4)(a)(ii) and (4)(b) above as if references to “effective consent” were to consent in writing given before the appointed day and which has not been withdrawn, and paragraphs 2(4) and 4 of that Schedule shall apply for the purposes of such consent as they apply for the purposes of consent under that Schedule.