
STATUTORY INSTRUMENTS

1991 No. 480 (C.10)

MEDICAL PROFESSION

**The Human Fertilisation and Embryology Act 1990
(Commencement No. 2 and Transitional Provision) Order 1991**

Made - - - - 4th March 1991

In exercise of powers conferred by section 49(2) and (6) of the Human Fertilisation and Embryology Act 1990⁽¹⁾ and of all other powers enabling me in that behalf, I hereby make the following Order:

Citation

1. This Order may be cited as the Human Fertilisation and Embryology Act 1990 (Commencement No. 2 and Transitional Provision) Order 1991.

Appointed day

2. 1st April 1991 is the day appointed for the coming into force of the following provisions of the Human Fertilisation and Embryology Act 1990—

- (a) section 37 (amendments to the Abortion Act 1967⁽²⁾), and
- (b) section 48(1) (extent) so far as it relates to section 37.

Transitional provision

3.—(1) In this Article—

“the commencement date” means 1st April 1991;

“the transitional period” means the period of one month beginning with the commencement date;

“the Act” means the Abortion Act 1967; and

“the old regulations” means the regulations made under section 2 of the Act in force immediately before the commencement date⁽³⁾.

(2) Where immediately before the commencement date only one of the two registered medical practitioners whose opinions are referred to in section 1(1) of the Act as it was then in force has

(1) 1990 c. 37.

(2) 1967 c. 87.

(3) The Abortion Regulations 1968 (S.I. 1968/390), as amended by S.I. 1969/636, 1976/615, and 1980/1724, and the Abortion (Scotland) Regulations 1968 (S.I. 1968/505), as amended by 1974/1309, 1976/127, and 1980/1864.

formed his opinion and (in accordance with the provisions of the old regulations) has certified it, the second medical practitioner, if he certifies his opinion during the transitional period, shall also do so in terms of that subsection as it was in force immediately before the commencement date, and in accordance with the provisions of the old regulations.

(3) In relation to any termination during the transitional period of a pregnancy falling within paragraph (4) below—

- (a) subject to paragraph (5) below, the Act shall apply as if the amendments brought into force by this Order had not been made, and
- (b) notice of the termination and other information relating to the termination shall be given to the appropriate Chief Medical Officer in accordance with the provisions of the old regulations.

(4) A pregnancy falls within this paragraph if the opinions referred to in section 1(1) of the Act relating to the pregnancy are certified in the form prescribed by the old regulations (whether because both opinions were certified before the commencement date, or because the first opinion was certified before the commencement, and the second opinion was certified after the commencement date in accordance with paragraph (2) above).

(5) Where a pregnancy falling within paragraph (4) above is terminated during the transitional period in reliance upon the opinion of two registered medical practitioners that the continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman or any existing children of her family, greater than if the pregnancy were terminated, paragraph (3)(a) above applies in relation to that termination only if the registered medical practitioner who terminates the pregnancy is of the opinion, formed in good faith, that the pregnancy has not exceeded its twenty-fourth week.

4th March 1991

William Waldegrave
One of Her Majesty's Principal Secretaries of
State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st April 1991 the amendments to the Abortion Act 1967 contained in section 37 of the Human Fertilisation and Embryology Act 1990. Section 48(1) of that Act provides that those amendments do not extend to Northern Ireland.

This Order also provides that, for a transitional period of one month, abortions may continue to be performed as if the amendments brought into force by this Order had not been made, provided the certificate of the opinion of two doctors which states the ground for the abortion had been signed by one or both of the doctors before 1st April 1991. In the case of any abortion performed under these circumstances on the ground that continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman or any existing children of her family, this Order also provides that the doctor who terminates the pregnancy must in addition satisfy himself that the pregnancy has not exceeded 24 weeks.

This Order also provides that any abortion performed in reliance upon the transitional provision must be notified to the Chief Medical Officer in accordance with the regulations governing notification which were in force before 1st April 1991

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

This Order has been preceded by one earlier Order, entitled the Human Fertilisation and Embryology Act 1990 (Commencement No. 1) Order 1990 (S.I. 1990/2165), made on 2nd November 1990. That Order brought into force on 7th November 1990 the provisions of the Human Fertilisation and Embryology Act 1990 set out in the following Table.

TABLE

Provisions of the Human Fertilisation and Embryology Act 1990 brought into force on 7th November 1990 by S.I. 1990/2165

| Column 1 Provision of the Act | Column 2 Subject Matter |
|----------------------------------|--|
| Section 2(1) (partially) | Interpretation of certain terms |
| Section 5 | The Human Fertilisation and Embryology Authority |
| Section 6 | Accounts and audit |
| Section 7 | Reports to Secretary of State |
| Section 26 | Procedure for approval of Code of Practice |
| Section 33(1), (2)(b) and (4) | Restrictions on disclosure of information |
| Section 36 | Amendment of Surrogacy Arrangements Act 1985 |
| Section 40 | Power to enter premises |

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

| Column 1 Provision of the Act | Column 2 Subject Matter |
|--|---|
| Section 41(5), (6) and (9) (partially) | Offences |
| Section 42 | Consent to prosecution |
| Section 48(1)(partially) | Northern Ireland |
| Section 49(1), (2), (6) and (7) | Short title, commencement etc. |
| Schedule 1 | The Authority: Supplementary Provisions |