

## SCHEDULES

### SCHEDULE 3

#### CONSENTS TO USE <sup>[F1]</sup>OR STORAGE OF GAMETES, EMBRYOS OR HUMAN ADMIXED EMBRYOS ETC]

##### Textual Amendments

- F1** Words in Sch. 3 heading substituted (1.10.2009) by [Human Fertilisation and Embryology Act 2008](#) (c. 22), s. 68(2), [Sch. 3 para. 2](#); [S.I. 2009/2232](#), art. 2(w)

##### Commencement Information

- I1** Schedule 3 wholly in force at 1.8.1991 see s. 49(2) and [S.I. 1991/1400](#), art. 2(2)

*<sup>[F1]</sup>Consulting carers etc. in case of adult lacking capacity*

##### Textual Amendments

- F1** Sch. 3 paras. 15-21 and cross-headings inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008](#) (c. 22), s. 68(2), [Sch. 3 para. 14](#); [S.I. 2009/2232](#), art. 2(w)

- 18 (1) This paragraph applies in relation to a person who has attained the age of 18 years (“P”) where the person responsible under the licence (“R”) wishes to use P’s human cells to bring about the creation *in vitro* of an embryo or human admixed embryo for use for the purposes of a project of research, in a case where P lacks capacity to consent to their use.
- (2) R must take reasonable steps to identify a person who—
- otherwise than in a professional capacity or for remuneration, is engaged in caring for P or is interested in P’s welfare, and
  - is prepared to be consulted by R under this paragraph of this Schedule.
- (3) If R is unable to identify such a person R must nominate a person who—
- is prepared to be consulted by R under this paragraph of this Schedule, but
  - has no connection with the project.
- (4) R must provide the person identified under sub-paragraph (2) or nominated under sub-paragraph (3) (“F”) with information about the proposed use of human cells to bring about the creation *in vitro* of embryos or human admixed embryos for use for the purposes of the project and ask F what, in F’s opinion, P’s wishes and feelings about the use of P’s human cells for that purpose would be likely to be if P had capacity in relation to the matter.

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**Changes to legislation:** *There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Cross Heading: Consulting carers etc. in case of adult lacking capacity. (See end of Document for details)*

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- (5) The condition referred to in paragraph 16(1)(c) is that, on being consulted, F has not advised R that in F's opinion P's wishes and feelings would be likely to lead P to decline to consent to the use of P's human cells for that purpose.
- (6) In relation to Scotland, the references in sub-paragraphs (1) and (4) to P lacking, or having, capacity to consent are to be read respectively as references to P being, or not being, incapable (within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000) of giving such consent.]

**Changes to legislation:**

There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Cross Heading: Consulting carers etc. in case of adult lacking capacity.