

## 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

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

#### <sup>[F1]</sup>Renewal of consent to storage of embryos

##### Textual Amendments

- F1** Sch. 3 paras. 11A-11D and cross-headings inserted (1.7.2022) by [Health and Care Act 2022](#) (c. 31), s. 186(3), [Sch. 17 para. 7\(4\)](#) (with [Sch. 17 Pt. 2](#))

#### 11C (1) This paragraph applies where—

- (a) an embryo, the creation of which was brought about *in vitro*, is in storage,
- (b) the embryo is being kept for use for the purposes of providing treatment services to—
  - (i) a person (“P”) whose gametes or human cells were used to bring about the creation of the embryo, or
  - (ii) P and another person together,
- (c) P’s consent to the storage of the embryo is required under paragraph 8(2), and
- (d) there is effective consent from P to the storage of the embryo.

- (2) The person keeping the embryo in storage (“K”) must, in each consent period, request P to renew consent to storage of the embryo within the renewal period.

For the meaning of “consent period” and “renewal period”, see paragraph 11D.

- (3) A request under sub-paragraph (2) must be given in writing before the start of the renewal period.

- (4) The duty in sub-paragraph (2) ceases to apply if—

- (a) K is notified that P has died, or
- (b) K is notified under paragraph 4A(1)(c) of the withdrawal of a person’s consent to storage of the embryo.

- (5) The duty in sub-paragraph (2) does not apply in relation to any consent period if—

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*Changes to legislation: There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Paragraph 11C. (See end of Document for details)*

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- (a) K has at any time been informed in writing that P has been certified as lacking capacity to renew consent to storage of the embryo, and
    - (b) K has not subsequently been informed in writing, before the start of the renewal period which relates to that consent period, that P has been certified as having capacity to renew consent to storage of the embryo.
  - (6) P renews consent by informing K in writing that P consents to the storage of the embryo.
  - (7) If P's consent is not renewed under sub-paragraph (6) before the end of the consent period, K must, as soon as possible after the end of that period, give a notice to P stating that if P does not renew consent before the end of the renewal period, the embryo will be removed from storage and disposed of.
  - (8) P's consent to the storage of the embryo is to be taken as having been withdrawn at the end of a renewal period that relates to a consent period if—
    - (a) K has complied with the requirements of sub-paragraphs (2) and (7) in relation to that consent period, and
    - (b) P's consent is not renewed under sub-paragraph (6) before the end of the renewal period.
- But this is subject to sub-paragraphs (9) and (10).
- (9) If, in a case referred to in sub-paragraph (8)(a) and (b), P dies before the end of the renewal period—
    - (a) P's consent is not to be taken as withdrawn under sub-paragraph (8), but
    - (b) if at the end of the period of 10 years beginning with the day on which P died there is still effective consent from P to the storage, P's consent is to be taken as withdrawn at that time.
  - (10) If, in a case referred to in sub-paragraph (8)(a) and (b), before the end of the renewal period P is certified as lacking capacity to renew consent—
    - (a) P's consent is not to be taken as withdrawn under sub-paragraph (8), but
    - (b) if at the end of the period of 10 years beginning with the day on which P was so certified there is still effective consent from P to the storage, P's consent is to be taken as withdrawn at that time.
  - (11) But P's consent is not to be taken as withdrawn under sub-paragraph (10)(b) if, before the time it would be taken to be withdrawn under that sub-paragraph—
    - (a) P is certified as having capacity to renew consent to storage of the embryo, and
    - (b) P renews consent to storage of the embryo by informing K in writing that P consents to its storage.
  - (12) In a case where P has renewed consent under sub-paragraph (11)(b), this paragraph applies subsequently as if references to the consent period were to—
    - (a) the period of 10 years beginning with the day on which P so renewed consent, and
    - (b) each successive period of 10 years.
  - (13) Where P's consent is taken as withdrawn under this paragraph, K must, as soon as possible, take all reasonable steps to give notice of the withdrawal to each person whose gametes or human cells were used to bring about its creation.

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**Changes to legislation:** There are currently no known outstanding effects for the Human  
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(14) Storage of the embryo remains lawful until—

- (a) the end of the period of 6 months beginning with the day on which P's consent is taken as withdrawn under this paragraph, or
- (b) if, before the end of that period, K receives a notice from each person notified under sub-paragraph (13) stating that the person consents to the disposal of the embryo, the time at which the last of those notices was received.]

**Changes to legislation:**

There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Paragraph 11C.