

## 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)

#### *Consent*

- 2 (1) A consent to the use of any embryo must specify one or more of the following purposes—
- (a) use in providing treatment services to the person giving consent, or that person and another specified person together,
  - (b) use in providing treatment services to persons not including the person giving consent,
  - <sup>[F1]</sup>(ba) use for the purpose of training persons in embryo biopsy, embryo storage or other embryological techniques, or]
  - (c) use for the purposes of any project of research,
- and may specify conditions subject to which the embryo may be so used.
- <sup>[F2]</sup>(1A) A consent to the use of any human admixed embryo must specify use for the purposes of any project of research and may specify conditions subject to which the human admixed embryo may be so used.]
- <sup>[F3]</sup>(2) A consent to the storage of any gametes, any embryo or any human admixed embryo must—
- (a) specify the maximum period of storage (if less than the <sup>[F4]</sup>period for which, by virtue of section 14(3), the gametes, embryo or human admixed embryo may be stored under the licence],
  - (b) except in a case falling within paragraph (c), state what is to be done with the gametes, embryo or human admixed embryo if the person who gave the consent dies or is unable, because the person lacks capacity to do so, to vary the terms of the consent or to withdraw it, and
  - (c) where the consent is given by virtue of paragraph 8(2A) or 13(2), state what is to be done with the embryo or human admixed embryo if the person to whom the consent relates dies,
- and may (in any case) specify conditions subject to which the gametes, embryo or human admixed embryo may remain in storage.

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*Changes to legislation: There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Paragraph 2. (See end of Document for details)*

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- (2A) A consent to the use of a person's human cells to bring about the creation *in vitro* of an embryo or human admixed embryo is to be taken unless otherwise stated to include consent to the use of the cells after the person's death.
- (2B) In relation to Scotland, the reference in sub-paragraph (2)(b) to the person lacking capacity is to be read as a reference to the person—
- (a) lacking capacity within the meaning of the Age of Legal Capacity (Scotland) Act 1991, or
  - (b) being incapable within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000.]
- (3) A consent under this Schedule must provide for such other matters as the Authority may specify in directions.
- [<sup>F5</sup>(4) A consent under this Schedule may apply—
- (a) to the use or storage of a particular embryo or human admixed embryo, or
  - (b) in the case of a person providing gametes or human cells, to the use or storage of—
    - (i) any embryo or human admixed embryo whose creation may be brought about using those gametes or those cells, and
    - (ii) any embryo or human admixed embryo whose creation may be brought about using such an embryo or human admixed embryo.
- (5) In the case of a consent falling within sub-paragraph (4)(b), the terms of the consent may be varied, or the consent may be withdrawn, in accordance with this Schedule either generally or in relation to—
- (a) a particular embryo or particular embryos, or
  - (b) a particular human admixed embryo or particular human admixed embryos.]

#### Textual Amendments

- F1** Sch. 3 para. 2(1)(ba) substituted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), s. 68(2), **Sch. 3 para. 4(2)**; S.I. 2009/2232, art. 2(w)
- F2** Sch. 3 para. 2(1A) inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), s. 68(2), **Sch. 3 para. 4(3)**; S.I. 2009/2232, art. 2(w)
- F3** Sch. 3 para. 2(2)-(2B) substituted for Sch. 3 para. 2(2) (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), s. 68(2), **Sch. 3 para. 4(4)**; S.I. 2009/2232, art. 2(w)
- F4** Words in Sch. 3 para. 2(2)(a) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(3), **Sch. 17 para. 4** (with Sch. 17 Pt. 2)
- F5** Sch. 3 para. 2(4)(5) substituted for Sch. 3 para. 2(4) (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), s. 68(2), **Sch. 3 para. 4(5)**; S.I. 2009/2232, art. 2(w)

#### Commencement Information

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

**Changes to legislation:**

There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, Paragraph 2.