Human Fertilisation and Embryology Act 2008

CHAPTER 22

HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

PART 1

AMENDMENTS OF THE HUMAN FERTILISATION AND EMBRYOLOGY ACT 1990

Principal terms used in the 1990 Act

1. Meaning of “embryo” and “gamete”
2. Meaning of “nuclear DNA”

Activities governed by the 1990 Act

3. Prohibitions in connection with embryos
4. Prohibitions in connection with genetic material not of human origin

The Human Fertilisation and Embryology Authority

5. Membership of Authority: disqualification and tenure
6. Additional general functions of Authority
7. Duties in relation to carrying out its functions
8. Power to contract out functions etc.
9. Power to assist other public authorities
10. Power to delegate and establish committees

Scope of licences

11. Activities that may be licensed
Licence conditions

12 General conditions of licences
13 Consent to use or storage of gametes, embryos, human admixed embryos etc.
14 Conditions of licences for treatment
15 Conditions of storage licences

Grant, revocation and suspension of licences

16 Grant of licence
17 The person responsible
18 Revocation and variation of licence
19 Procedure for refusal, variation or revocation of licence
20 Power to suspend licence
21 Reconsideration and appeals

Directions and guidance

22 Directions
23 Code of practice

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24 Register of information
25 Restrictions on disclosure of information

Mitochondrial donation

26 Mitochondrial donation

Miscellaneous

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28 Inspection, entry, search and seizure
29 Offences under the 1990 Act
30 Regulations under the 1990 Act
31 Power to make consequential provision
32 Orders under the 1990 Act

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PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

Meaning of “mother”

33 Meaning of “mother”

Application of sections 35 to 47

34 Application of sections 35 to 47

Meaning of “father”

35 Woman married to a man at time of treatment
36 Treatment provided to woman where agreed fatherhood conditions apply
37 The agreed fatherhood conditions
38 Further provision relating to sections 35 and 36
39 Use of sperm, or transfer of embryo, after death of man providing sperm
40 Embryo transferred after death of husband etc. who did not provide sperm
41 Persons not to be treated as father

Cases in which woman to be other parent
42 Woman in civil partnership or marriage to a woman at time of treatment
43 Treatment provided to woman who agrees that second woman to be parent
44 The agreed female parenthood conditions
45 Further provision relating to sections 42 and 43
46 Embryo transferred after death of civil partner or wife or intended female parent
47 Woman not to be other parent merely because of egg donation

Effect of sections 33 to 47
48 Effect of sections 33 to 47

References to parties to marriage or civil partnership
49 Meaning of references to parties to a marriage
50 Meaning of references to parties to a civil partnership

Further provision about registration by virtue of section 39, 40 or 46
51 Meaning of “relevant register of births”
52 Late election by mother with consent of Registrar General

Interpretation of references to father etc. where woman is other parent
53 Interpretation of references to father etc.

Parental orders
54 Parental orders: two applicants
54A Parental orders: one applicant
55 Parental orders: supplementary provision

Amendments of enactments
56 Amendments relating to parenthood in cases involving assisted reproduction

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57 Repeals and transitional provision relating to Part 2
58 Interpretation of Part 2

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59 Surrogacy arrangements
Exclusion of embryos from definition of “organism” in Part 6 of the EPA 1990

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Orders and regulations: parliamentary control
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Power to make consequential and transitional provision etc.
Minor and consequential amendments
Repeals and revocations
Extent
Commencement
Short title

SCHEDULES

SCHEDULE 1 — Amendments to Schedule 1 to the 1990 Act relating to membership of the Authority

SCHEDULE 2 — Activities that may be licensed under the 1990 Act

Introductory

Licences for treatment

Embryo testing and sex selection

Licences for non-medical fertility services

Licences for storage

Licences for research

SCHEDULE 3 — Consent to use or storage of gametes, embryos or human admixed embryos etc.
Introductory
1 Schedule 3 to the 1990 Act (giving of consent to...
2 In the title to that Schedule, for “OF GAMETES OR...

General requirements as to consent
3 For paragraph 1 substitute— (1) A consent under this Schedule, and any notice under...

Terms of consent
4 (1) Paragraph 2 (terms etc. of consent) is amended as...

Information to be given to a person giving consent
5 In paragraph 3 (procedure for giving consent), in sub-paragraph (2),...

Variation and withdrawal of consent
6 (1) Paragraph 4 (variation and withdrawal of consent) is amended...

Withdrawal of consent to storage: notification of interested persons
7 After paragraph 4 insert— (1) This paragraph applies where— (a) a permitted embryo, the...

Application of consent provisions to non-medical fertility services
8 In paragraph 5 (use of gametes for treatment of others),...

In vitro fertilisation and subsequent use of embryo
9 (1) Paragraph 6 (in vitro fertilisation and subsequent use of...

Use of embryos obtained by lavage etc.
10 (1) Paragraph 7 (embryos obtained by lavage etc.) is amended...

Consents in relation to storage
11 (1) Paragraph 8 (storage of gametes and embryos) is amended...
12 After paragraph 8 insert— Cases where consent not required for...

Creation, use and storage of human admixed embryos
13 After paragraph 11 (as inserted by paragraph 12 above) insert—....

Cases where human cells etc. can be used without consent of person providing them
14 After paragraph 14 (as inserted by paragraph 13 above) insert—....

Interpretation
15 After paragraph 21 (as inserted by paragraph 14 above) insert—....

SCHEDULE 4 — Schedule inserted in the 1990 Act as Schedule 3ZA
SCHEDULE 5 — Schedule inserted in the 1990 Act as Schedule 3B
SCHEDULE 6 — Amendments relating to parenthood in cases involving assisted reproduction

Part 1 — GENERAL

**Population (Statistics) Act 1938 (c. 12)**

1 (1) In the Schedule to the Population (Statistics) Act 1938...

**Births and Deaths Registration Act 1953 (c. 20)**

2 In section 1 of the Births and Deaths Registration Act...
3 In section 2 of the Births and Deaths Registration Act...
4 In section 9(4) of the Births and Deaths Registration Act...
5 (1) Section 10 of the Births and Deaths Registration Act...
6 For section 10ZA of the Births and Deaths Registration Act...
7 (1) Section 10A of the Births and Deaths Registration Act...
8 In section 13 of the Births and Deaths Registration Act...
9 (1) Section 14 of the Births and Deaths Registration Act...
10 (1) Section 29A of the Births and Deaths Registration Act...

**Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58)**

11 (1) Section 3A of the Births, Deaths and Marriages (Special...
12 At the end of section 5 of the Registration of...

**Family Law Reform Act 1969 (c. 46)**

13 In section 25 of the Family Law Reform Act 1969...

**Congenital Disabilities (Civil Liability) Act 1976 (c. 28)**

14 In section 1 of the Congenital Disabilities (Civil Liability) Act...
15 In section 4 of the Congenital Disabilities (Civil Liability) Act...

**Legitimacy Act 1976 (c. 31)**

16 After section 2 of the Legitimacy Act 1976 (legitimation by...
17 In section 3 of the Legitimacy Act 1976 (legitimation by...
18 In section 9 of the Legitimacy Act 1976 (re-registration of...
19 In section 10 of the Legitimacy Act 1976 (interpretation), in...

**Magistrates' Courts Act 1980 (c. 43)**

20 In section 65 of the Magistrates' Courts Act 1980 (meaning...

**Supreme Court Act 1981 (c. 54)**

21 In Schedule 1 to the Supreme Court Act 1981 (distribution...
Family Law Reform Act 1987 (c. 42)

24  (1) Section 1 of the Family Law Reform Act 1987...
25  (1) Section 18 of the Family Law Reform Act 1987...

Children Act 1989 (c. 41)

26  (1) Section 2 of the Children Act 1989 (parental responsibility...
27  After section 4 of the Children Act 1989 insert— Acquisition...
28  (1) Section 12 of the Children Act 1989 (residence orders...
29  In section 91 of the Children Act 1989 (effect and...
30  In section 104 of the Children Act 1989 (regulations and...
31  In section 105 of the Children Act 1989 (interpretation), in...
32  (1) Schedule 1 to the Children Act 1989 (financial provision...

Human Fertilisation and Embryology Act 1990 (c. 37)

33  (1) Section 32 of the 1990 Act (information to be...
34  In section 34 of the 1990 Act (disclosure in the...
35  (1) Section 35 of the 1990 Act (disclosure of information...

Child Support Act 1991 (c. 48)

36  In section 26 of the Child Support Act 1991 (disputes...
Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Human Fertilisation and Embryology Act 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Children (Scotland) Act 1995 (c. 36)
48 In section 1(1) of the Children (Scotland) Act 1995 (parental...
49 In section 2(1) of the Children (Scotland) Act 1995 (parental...
50 (1) Section 3 of the Children (Scotland) Act 1995 (provisions...
51 After section 4 of the Children (Scotland) Act 1995 insert—...
52 (1) Section 11 of the Children (Scotland) Act 1995 (court...
53 In section 12(4)(b) of the Children (Scotland) Act 1995 (meaning...
54 In section 15(1) of the Children (Scotland) Act 1995 (interpretation...

Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)
55 In section 1(1) of the Criminal Law (Consolidation) (Scotland) Act...

Adoption and Children (Scotland) Act 2007 (asp 4)
56 (1) Section 30 of the Adoption and Children (Scotland) Act...
Part 3 — ENACTMENTS RELATING ONLY TO NORTHERN IRELAND
Legitimacy Act (Northern Ireland) 1928 (c. 5 (N.I.))
57 (1) Section 1 of the Legitimacy Act (Northern Ireland) 1928...
58 (1) Section 8 of the Legitimacy Act (Northern Ireland) 1928...
59 In section 11 of the Legitimacy Act (Northern Ireland) 1928...

Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041 (N.I. 14))
60 (1) Article 10 of the Births and Deaths Registration (Northern...
61 After Article 14 of the Births and Deaths Registration (Northern...
62 For Article 14A of the Births and Deaths Registration (Northern...
63 (1) Article 18 of the Births and Deaths Registration (Northern...
64 (1) Article 19 of the Births and Deaths Registration (Northern...
65 In Article 20 of the Births and Deaths Registration (Northern...
66 In Article 37 of the Births and Deaths Registration (Northern...

67 In Article 13 of the Family Law Reform (Northern Ireland)... Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))
68 (1) Article 15 of the Adoption (Northern Ireland) Order 1987...

69 In Article 27 of the Child Support (Northern Ireland) Order...

70 In Article 2 of the Children (Northern Ireland) Order 1995...
71 (1) Article 5 of the Children (Northern Ireland) Order 1995...
72 (1) Article 7 of the Children (Northern Ireland) Order 1995...
73 In Article 8 of the Children (Northern Ireland) Order 1995...
74 (1) Article 12 of the Children (Northern Ireland) Order 1995...
75 (1) Article 155 of the Children (Northern Ireland) Order 1995...
76 In Article 179 of the Children (Northern Ireland) Order 1995...
77 (1) Schedule 1 to the Children (Northern Ireland) Order 1995...
78  (1) Paragraph 1 of Schedule 6 to the Children (Northern...


79  In Article 2 of the Family Homes and Domestic Violence...

**SCHEDULE 7 — Minor and consequential amendments**

*Congenital Disabilities (Civil Liability) Act 1976 (c. 28)*

1  In section 4 of the Congenital Disabilities (Civil Liability) Act...

*Human Fertilisation and Embryology Act 1990 (c. 37)*

2  In section 2 of the 1990 Act (other terms)—
3  In section 7 of the 1990 Act (reports to Secretary...—
4  Omit section 10 of the 1990 Act (licensing procedure).
5  In section 13A of the 1990 Act (conditions of licences...—
6  In section 14A of the 1990 Act (conditions of licences...—
7  In section 15 of the 1990 Act (conditions of research...—
8  Omit section 22 of the 1990 Act (temporary suspension of...—
9  In section 23 of the 1990 Act (directions: general)—
10  (1) Section 31A of the 1990 Act (the Authority's register...—
11  In section 32 of the 1990 Act (information to be...
12  In section 34 of the 1990 Act (disclosure in the...
13  In section 47 of the 1990 Act (index)—
14  In section 48 of the 1990 Act (application to Northern...
15  In Schedule 1 to the 1990 Act (the Authority: supplementary...

*Age of Legal Capacity (Scotland) Act 1991 (c. 50)*

16  In section 2 of the Age of Legal Capacity (Scotland)...—

*Children (Scotland) Act 1995 (c. 36)*

17  In section 15 of the Children (Scotland) Act 1995 (interpretation...—

*Adults with Incapacity (Scotland) Act 2000 (asp 4)*

18  After section 84 of the Adults with Incapacity (Scotland) Act...

*Criminal Justice and Police Act 2001 (c. 16)*

19  In section 57 of the Criminal Justice and Police Act...—
20  In section 66 of the Criminal Justice and Police Act...—
21  In Schedule 1 to the Criminal Justice and Police Act...

*Human Tissue Act 2004 (c. 30)*

22  In section 1 of the Human Tissue Act 2004 (authorisation...—
23  In section 14 of the Human Tissue Act 2004 (remit...—
24  In section 54 of the Human Tissue Act 2004 (general...—

*Mental Capacity Act 2005 (c. 9)*

25  In section 30 of the Mental Capacity Act 2005 (research),...
SCHEDULE 8 — Repeals and revocations
   Part 1 — REPEALS
   Part 2 — REVOCATIONS
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View outstanding changes

Changes and effects yet to be applied to:
- s. 42 heading words inserted by S.I. 2019/1514 reg. 26(5)(a)
- s. 46 heading words substituted by S.I. 2019/1458 reg. 16(7)(a)
- s. 46 heading words substituted by S.I. 2019/1514 reg. 26(7)(a)
- s. 35 heading words inserted by S.I. 2019/1458 reg. 16(2)(a)
- s. 35 heading words inserted by S.I. 2019/1514 reg. 26(2)(a)
- s. 40 heading words substituted by S.I. 2019/1458 reg. 16(4)(a)
- s. 40 heading words substituted by S.I. 2019/1514 reg. 26(4)(a)
- s. 35(1)(a) words inserted by S.I. 2019/1458 reg. 16(2)(b)(i)
- s. 35(1)(a) words inserted by S.I. 2019/1514 reg. 26(2)(b)(i)
- s. 35(1)(b) words inserted by S.I. 2019/1458 reg. 16(2)(b)(ii)
- s. 35(1)(b) words inserted by S.I. 2019/1514 reg. 26(2)(b)(ii)
- s. 38(2) words inserted by S.I. 2019/1458 reg. 16(3)(a)
- s. 38(2) words inserted by S.I. 2019/1458 reg. 16(3)(b)
- s. 38(2) words inserted by S.I. 2019/1514 reg. 26(3)(a)
- s. 38(2) words inserted by S.I. 2019/1514 reg. 26(3)(b)
- s. 38(2) words inserted by S.I. 2019/1514 reg. 26(3)(c)
- s. 40(1)(b) words inserted by S.I. 2019/1458 reg. 16(4)(b)(i)
- s. 40(1)(b) words inserted by S.I. 2019/1514 reg. 26(4)(b)(i)
- s. 40(1)(c) words inserted by S.I. 2019/1458 reg. 16(4)(b)(ii)
- s. 40(1)(c) words inserted by S.I. 2019/1514 reg. 26(4)(b)(ii)
- s. 40(1)(d) words inserted by S.I. 2019/1458 reg. 16(4)(b)(ii)
- s. 40(1)(d) words inserted by S.I. 2019/1514 reg. 26(4)(b)(ii)
- s. 40(1)(e) words inserted by S.I. 2019/1458 reg. 16(4)(b)(ii)
- s. 40(1)(e) words inserted by S.I. 2019/1514 reg. 26(4)(b)(ii)
- s. 42(1) words inserted by S.I. 2019/1458 reg. 16(5)
- s. 42(1) words inserted by S.I. 2019/1514 reg. 26(5)(b)(i)
- s. 42(1) words inserted by S.I. 2019/1514 reg. 26(5)(b)(ii)
- s. 45(2) words inserted by S.I. 2019/1458 reg. 16(6)(a)
- s. 45(2) words inserted by S.I. 2019/1458 reg. 16(6)(b)
- s. 45(2) words inserted by S.I. 2019/1514 reg. 26(6)(a)
- s. 45(2) words inserted by S.I. 2019/1514 reg. 26(6)(b)
- s. 45(2) words inserted by S.I. 2019/1514 reg. 26(6)(c)
- s. 46(1) words inserted by S.I. 2019/1514 reg. 26(7)(b)(i)
- s. 46(1)(b) words inserted by S.I. 2019/1514 reg. 26(7)(b)(i)
- s. 46(1)(b) words substituted by S.I. 2019/1458 reg. 16(7)(b)
- s. 46(1)(c) words inserted by S.I. 2019/1514 reg. 26(7)(b)(ii)
- s. 46(1)(d) words inserted by S.I. 2019/1514 reg. 26(7)(b)(ii)
- s. 46(1)(e) words inserted by S.I. 2019/1514 reg. 26(7)(b)(ii)
- s. 48(6)(b) words inserted by S.I. 2019/1458 reg. 16(8)
- s. 48(6)(b) words inserted by S.I. 2019/1514 reg. 26(8)
- s. 50(2) omitted by S.I. 2019/1458 reg. 14(1)
- s. 50(2) omitted by S.I. 2019/1514 reg. 26(9)