



# Human Fertilisation and Embryology Act 2008

## 2008 CHAPTER 22

### PART 3

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **59 Surrogacy arrangements**

- (1) The Surrogacy Arrangements Act 1985 (c. 49) is amended as follows.
- (2) In section 1 (meaning of various terms), after subsection (7) insert—
  - “(7A) “Non-profit making body” means a body of persons whose activities are not carried on for profit.”
- (3) In section 2 (negotiating surrogacy arrangements on a commercial basis), in subsection (1)—
  - (a) in paragraph (a) omit “or take part in”, and
  - (b) after paragraph (a) insert—
    - “(aa) take part in any negotiations with a view to the making of a surrogacy arrangement.”
- (4) After subsection (2) insert—
  - “(2A) A non-profit making body does not contravene subsection (1) merely because—
    - (a) the body does an act falling within subsection (1)(a) or (c) in respect of which any reasonable payment is at any time received by it or another,
    - or

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**Changes to legislation:** *Human Fertilisation and Embryology Act 2008, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (b) it does an act falling within subsection (1)(a) or (c) with a view to any reasonable payment being received by it or another in respect of facilitating the making of any surrogacy arrangement.
- (2B) A person who knowingly causes a non-profit making body to do an act falling within subsection (1)(a) or (c) does not contravene subsection (1) merely because—
- (a) any reasonable payment is at any time received by the body or another in respect of the body doing the act, or
  - (b) the body does the act with a view to any reasonable payment being received by it or another person in respect of the body facilitating the making of any surrogacy arrangement.
- (2C) Any reference in subsection (2A) or (2B) to a reasonable payment in respect of the doing of an act by a non-profit making body is a reference to a payment not exceeding the body's costs reasonably attributable to the doing of the act.”
- (5) After subsection (5) of that section insert—
- “(5A) A non-profit making body is not guilty of an offence under subsection (5), in respect of the receipt of any payment described in that subsection, merely because a person acting on behalf of the body takes part in facilitating the making of a surrogacy arrangement.”
- (6) After subsection (8) of that section insert—
- “(8A) A person is not guilty of an offence under subsection (7) if—
- (a) the body of persons referred to in that subsection is a non-profit making body, and
  - (b) the only activity of that body which falls within subsection (8) is facilitating the making of surrogacy arrangements in the United Kingdom.
- (8B) In subsection (8A)(b) “facilitating the making of surrogacy arrangements” is to be construed in accordance with subsection (8).”
- (7) In section 3 (advertisements about surrogacy), after subsection (1) insert—
- “(1A) This section does not apply to any advertisement placed by, or on behalf of, a non-profit making body if the advertisement relates only to the doing by the body of acts that would not contravene section 2(1) even if done on a commercial basis (within the meaning of section 2).”

## **60 Exclusion of embryos from definition of “organism” in Part 6 of the EPA 1990**

- (1) Section 106 of the Environmental Protection Act 1990 (c. 43) (meaning of “genetically modified organisms” etc.) is amended as follows.
- (2) In subsection (2), for “or human embryos” substitute “ , human embryos or human admixed embryos ”.
- (3) After subsection (3) insert—
  - “(3A) For the purposes of subsection (2) above—
    - (a) “human embryo” means an embryo within the meaning given in the provisions of the Human Fertilisation and Embryology Act 1990

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(apart from section 4A) by virtue of section 1(1) and (6) of that Act,  
and

- (b) “human admixed embryo” has the same meaning as it has in that Act  
by virtue of section 4A(6) and (11) of that Act.”

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 55(3)(e) and word inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 75\(b\)](#)