



# 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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*Status: This is the original version (as it was originally enacted).*

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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

(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.”