



Human Fertilisation and Embryology Act 2008

2008 CHAPTER 22

PART 2

PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

Meaning of “father”

39 Use of sperm, or transfer of embryo, after death of man providing sperm

(1) If—

- (a) the child has been carried by W as a result of the placing in her of an embryo or of sperm and eggs or her artificial insemination,
- (b) the creation of the embryo carried by W was brought about by using the sperm of a man after his death, or the creation of the embryo was brought about using the sperm of a man before his death but the embryo was placed in W after his death,
- (c) the man consented in writing (and did not withdraw the consent)—
 - (i) to the use of his sperm after his death which brought about the creation of the embryo carried by W or (as the case may be) to the placing in W after his death of the embryo which was brought about using his sperm before his death, and
 - (ii) to being treated for the purpose mentioned in subsection (3) as the father of any resulting child,
- (d) W has elected in writing not later than the end of the period of 42 days from the day on which the child was born for the man to be treated for the purpose mentioned in subsection (3) as the father of the child, and
- (e) no-one else is to be treated—
 - (i) as the father of the child by virtue of section 35 or 36 or by virtue of section 38(2) or (3), or

Status: This is the original version (as it was originally enacted).

(ii) as a parent of the child by virtue of section 42 or 43 or by virtue of adoption,

then the man is to be treated for the purpose mentioned in subsection (3) as the father of the child.

- (2) Subsection (1) applies whether W was in the United Kingdom or elsewhere at the time of the placing in her of the embryo or of the sperm and eggs or of her artificial insemination.
- (3) The purpose referred to in subsection (1) is the purpose of enabling the man's particulars to be entered as the particulars of the child's father in a relevant register of births.
- (4) In the application of this section to Scotland, for any reference to a period of 42 days there is substituted a reference to a period of 21 days.