

These notes refer to the Human Fertilisation and Embryology Act 2008 (c.22) which received Royal Assent on 13 November 2008

HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Parenthood in Cases Involving Assisted Reproduction

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

176. **Section 39** replaces provisions inserted into the 1990 Act by the Human Fertilisation and Embryology (Deceased Fathers) Act 2003. Section 39 applies where a man's sperm, or an embryo created with his sperm, is used after his death. The man may be treated as the child's father, for the purposes of birth registration only, if various conditions are met. The man must have consented, in writing, to the use of the sperm or embryo after his death and to being treated as the child's father for the purposes of birth registration. The woman must elect that he should be treated in this way within 42 days (or, in Scotland, 21 days) of the child's birth. This provision applies whether the embryo or gametes were transferred to the woman in the UK or elsewhere.