

*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**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2: Parenthood in Cases Involving Assisted Reproduction**

##### ***Section 41: Persons not to be treated as father***

178. This section prevents a man from being treated as a child's father in certain cases even though the man's sperm was used. Subsection (1) prevents a man who has donated his sperm for the treatment of others from being treated as the father. This applies even where there is no father by virtue of section 35 or 36. Subsection (2) provides that where a man's sperm, or an embryo created with his sperm, is used after his death, he is not in general to be treated as the father or any resulting child. Section 39 (which as explained above applies only for the purposes of birth registration) provides a limited exception to this rule.