



Human Fertilisation and Embryology Act 2008

2008 CHAPTER 22

PART 2

PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

Parental orders

54 Parental orders^[F1]: two applicants]

- (1) On an application made by two people (“the applicants”), the court may make an order providing for a child to be treated in law as the child of the applicants if—
 - (a) the child has been carried by a woman who is not one of the applicants, as a result of the placing in her of an embryo or sperm and eggs or her artificial insemination,
 - (b) the gametes of at least one of the applicants were used to bring about the creation of the embryo, and
 - (c) the conditions in subsections (2) to ^[F2](8A)] are satisfied.
- (2) The applicants must be—
 - (a) husband and wife,
 - (b) civil partners of each other, or
 - (c) two persons who are living as partners in an enduring family relationship and are not within prohibited degrees of relationship in relation to each other.
- (3) Except in a case falling within subsection (11), the applicants must apply for the order during the period of 6 months beginning with the day on which the child is born.
- (4) At the time of the application and the making of the order—
 - (a) the child's home must be with the applicants, and
 - (b) either or both of the applicants must be domiciled in the United Kingdom or in the Channel Islands or the Isle of Man.

Status: Point in time view as at 03/01/2019.

Changes to legislation: Human Fertilisation and Embryology Act 2008, Section 54 is up to date with all changes known to be in force on or before 09 June 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)

- (5) At the time of the making of the order both the applicants must have attained the age of 18.
- (6) The court must be satisfied that both—
- (a) the woman who carried the child, and
 - (b) any other person who is a parent of the child but is not one of the applicants (including any man who is the father by virtue of section 35 or 36 or any woman who is a parent by virtue of section 42 or 43),
- have freely, and with full understanding of what is involved, agreed unconditionally to the making of the order.
- (7) Subsection (6) does not require the agreement of a person who cannot be found or is incapable of giving agreement; and the agreement of the woman who carried the child is ineffective for the purpose of that subsection if given by her less than six weeks after the child's birth.
- (8) The court must be satisfied that no money or other benefit (other than for expenses reasonably incurred) has been given or received by either of the applicants for or in consideration of—
- (a) the making of the order,
 - (b) any agreement required by subsection (6),
 - (c) the handing over of the child to the applicants, or
 - (d) the making of arrangements with a view to the making of the order,
- unless authorised by the court.
- [^{F3}(8A) An order relating to the child must not previously have been made under this section or section 54A, unless the order has been quashed or an appeal against the order has been allowed.]
- (9) For the purposes of an application under this section—
- (a) in relation to England and Wales [^{F4}—
 - (i) “the court” means the High Court or the family court, and
 - (ii) proceedings on the application are to be “family proceedings” for the purposes of the Children Act 1989,]
 - (b) in relation to Scotland, “the court” means the Court of Session or the sheriff court of the sheriffdom within which the child is, and
 - (c) in relation to Northern Ireland, “the court” means the High Court or any county court ^{F5}....
- (10) Subsection (1)(a) applies whether the woman was in the United Kingdom or elsewhere at the time of the placing in her of the embryo or the sperm and eggs or her artificial insemination.
- (11) An application which—
- (a) relates to a child born before the coming into force of this section, and
 - (b) is made by two persons who, throughout the period applicable under subsection (2) of section 30 of the 1990 Act, were not eligible to apply for an order under that section in relation to the child as husband and wife,
- may be made within the period of six months beginning with the day on which this section comes into force.

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Textual Amendments

- F1** Words in s. 54 heading inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), arts. 1(1), **2(2)**
- F2** Word in s. 54(1)(c) substituted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), arts. 1(1), **2(3)**
- F3** S. 54(8A) inserted (3.1.2019) by [The Human Fertilisation and Embryology Act 2008 \(Remedial\) Order 2018 \(S.I. 2018/1413\)](#), arts. 1(1), **2(4)**
- F4** Words in s. 54(9)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 206**; [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F5** Words in s. 54(9)(c) repealed (N.I.) (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), Sch. 1 para. 134, **Sch. 9 Pt. 1** (with Sch. 8 para. 1); [S.R. 2016/387](#), art. 2(k)(m) (with art. 3)

Modifications etc. (not altering text)

- C1** S. 54: power to modify conferred (6.4.2010) by [Human Fertilisation and Embryology Act 1990 \(c. 37\)](#), s. 35A (as inserted by [Human Fertilisation and Embryology Act 2008 \(c. 22\)](#), **ss. 26, 68**); [S.I. 2010/987](#), **art. 2(b)**
- C2** S. 54 applied (with modifications) (29.10.2015) by [The Human Fertilisation and Embryology \(Mitochondrial Donation\) Regulations 2015 \(S.I. 2015/572\)](#), regs. 1, **18**

Commencement Information

- I1** S. 54 wholly in force at 6.4.2010; s. 54 not in force at Royal assent see s. 68; s. 54 in force for certain purposes at 6.4.2009 by [S.I. 2009/479](#), **art. 5(h)** (with [Sch.](#)); s. 54 in force for certain further purposes at 1.10.2009 by [S.I. 2009/2232](#), **art. 2(q)**; s. 54 in force at 6.4.2010 otherwise by [S.I. 2010/987](#), **art. 2(c)**

Status:

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