



# 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

---

*Status: This is the original version (as it was originally enacted).*

---

- (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)."