
STATUTORY INSTRUMENTS

1991 No. 1588

HUMAN FERTILISATION AND EMBRYOLOGY

**The Human Fertilisation and Embryology
(Special Exemptions) Regulations 1991**

Made - - - - *9th July 1991*

Coming into force - - *1st August 1991*

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament:
Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 43(1) and 45 of the Human Fertilisation and Embryology Act 1990⁽¹⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Human Fertilisation and Embryology (Special Exemptions) Regulations 1991, and shall come into force on 1st August 1991.

(2) In these Regulations, “the Act” means the Human Fertilisation and Embryology Act 1990.

Keeping and examining gametes and embryos in connection with crime

2.—(1) Subject to the provisions of this regulation a person to whom a licence applies or a person specified by the Authority⁽²⁾ may—

- (a) keep or examine embryos, and
- (b) store gametes,

in connection with the investigation of, or proceedings for, an offence under the Act.

(2) This regulation applies only to embryos and gametes—

- (a) of which the Authority has taken possession, or
- (b) which are being or have been transferred from the person by whom they were being kept to another person in accordance either with directions or with other arrangements made by the Authority in connection with the investigation of, or proceedings for, an offence under the Act.

⁽¹⁾ 1990 c. 37.

⁽²⁾ Authority is the Human Fertilisation and Embryology Authority established under section 5 of the Act on 7th November 1990 (S.I.1990/2165).

(3) Embryos or gametes to which this regulation applies shall be kept or examined in the following manner and subject to the following conditions—

- (a) the manner in which they are kept shall be such as to secure so far as reasonably practicable that their condition does not deteriorate,
- (b) where they are kept or examined in any place where any activity governed by the Act is carried out in pursuance of a licence, or where gametes are stored under regulation 3 below, their containers shall be labelled in such a way as to make them easily distinguishable from those of embryos and gametes kept in pursuance of a licence and from those of gametes stored under regulation 3 below,

and any embryos or gametes to which this regulation applies shall be kept or examined in such conditions as are reasonable to secure that access to them is denied to persons other than those referred to in paragraph (1) above who are concerned with the particular investigation or proceedings in connection with which those embryos or gametes are being kept or examined.

Storage of gametes for other purposes

3.—(1) Subject to the provisions of this regulation, a person may store gametes which are to be used only for the following purposes, but only in so far as such purposes do not consist of or include treatment services or any purpose falling within paragraph (2) below—

- (a) research on gametes,
- (b) the development or testing of pharmaceutical or contraceptive products, or
- (c) teaching requiring the use of gametes.

(2) A purpose falls within this paragraph if it consists of or includes any of the following—

- (a) the use of gametes in any mixing of live egg and live sperm whether human or not,
- (b) any use of gametes which could not be authorised by a licence,
- (c) the supply of gametes to any person to whom a licence applies for use in any activity authorised by that licence,
- (d) the supply of gametes to any person for money or other benefit unless the giving of the money or other benefit would be authorised by directions in the case of gametes supplied in pursuance of a licence⁽³⁾, or
- (e) the export of gametes from the United Kingdom.

(3) Gametes for the supply of which a person has given money or other benefit may not be stored by that person under this regulation unless the giving of the money or other benefit would have been authorised by directions in the case of gametes obtained in pursuance of a licence⁽³⁾.

(4) The following conditions apply to the storage of gametes under this regulation—

- (a) where such gametes are stored on premises where any activity governed by the Act is carried out in pursuance of a licence, or where embryos or gametes are kept or examined under regulation 2 above, their containers shall be labelled in such a way as to make them easily distinguishable from those of embryos and gametes kept in pursuance of a licence and from those of embryos and gametes kept or examined under regulation 2 above,
- (b) access to them shall be limited to persons participating in the activities specified in paragraph (1) above, and (in the case of teaching) their students, but only under their supervision, and
- (c) they shall be stored in such conditions as are reasonable to secure that access to them is denied to persons other than those referred to in sub-paragraph (b) above.

⁽³⁾ The Authority may give such directions by virtue of section 12(e) of the Act. 2

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9th July 1991

William Waldegrave
One of Her Majesty's Principal Secretaries of
State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for two exceptions to the general rule that any person keeping or using human embryos, or storing human gametes, may do so only in accordance with a licence from the Human Fertilisation and Embryology Authority (“the Authority”).

The first exception, in regulation 2, applies to the keeping or examination of embryos, or the storing of gametes, in connection with the investigation of, or proceedings for, an offence under the Human Fertilisation and Embryology Act 1990. The exception provides that a person may keep or examine embryos, or store gametes, for that purpose without a licence from the Authority. Any such embryos or gametes will have been seized by the Authority or transferred to the place where they now are on the instructions of the Authority. They must if possible be kept in such a way that their condition does not deteriorate and must be distinctively labelled.

The second exception, in regulation 3, applies to the storing of gametes for the purpose of research on gametes, developing or testing pharmaceutical or contraceptive products, or teaching, provided they are not to be used for treatment services or in any mixing of eggs and sperm or for any other purpose specified in regulation 3(2). The exception provides that a person may store gametes for these purposes if he complies with the conditions set out in regulation 3(4). No money or other benefit may be given or received for such gametes unless this would be permitted (in the case of gametes stored under a licence) by directions given by the Authority.