
STATUTORY INSTRUMENTS

2009 No. 1582

The Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) Regulations 2009

PART 4

Transitionals, Revocations and Saving

Transitional provision for embryos: original storage period

5.—(1) In regulations 5 and 6 “original storage period” means the five year statutory storage period under section 14(4) of the Act prior to its amendment by the Human Fertilisation and Embryology Act 2008(1).

(2) Except where regulation 6 applies, this paragraph applies to an embryo that is in storage on the date that these Regulations come into force in relation to which the original storage period has not expired.

(3) Where paragraph (2) applies the statutory storage period for the embryo in question shall be—

- (a) subject to paragraph (6), where the circumstances in paragraph (4) are met, the period beginning with the date on which the embryo was first placed in storage and ending ten years after the date of the most recent written opinion given under sub-paragraph (b) of paragraph (4); or
- (b) ten years where those circumstances are not met.

(4) The circumstances referred to in sub-paragraph (a) of paragraph (3) are that—

- (a) the relevant persons have consented in writing whether before or after the coming into force of these Regulations to the embryo in question being stored for a period in excess of ten years for the provision of treatment services; and
- (b) on any day within the relevant period, but after the coming into force of these Regulations, a registered medical practitioner has given a written opinion that one of the relevant persons, or, where they are not one of those persons, the person to be treated, is prematurely infertile or is likely to become prematurely infertile.

(5) For the purposes of sub-paragraph (b) of paragraph (4), “the relevant period” means—

- (a) five years from the date that the embryo in question was first placed in storage; or
- (b) if later, ten years from the date the most recent previous written opinion was given under sub-paragraph (b) of paragraph (4).

(6) Where the statutory storage period calculated in accordance with sub-paragraph (a) of paragraph (3) would be greater than fifty five years, the statutory storage period for the purpose of that sub-paragraph shall be fifty five years.

Transitional provision for embryos: extended storage period

6.—(1) This paragraph applies to an embryo that is in storage on the date that these Regulations come into force in relation to which a storage period in excess of the original storage period applies by virtue of the 1996 Regulations (“the extended storage period”).

(2) Where paragraph (1) applies the statutory storage period for the embryo in question shall be—

- (a) subject to paragraph (5), where the circumstances in paragraph (3) are met, the period beginning with the date on which the embryo was first placed in storage and ending ten years after the date of the most recent written opinion given under sub-paragraph (b) of paragraph (3); or
- (b) the extended storage period where those circumstances are not met.

(3) The circumstances referred to in sub-paragraph (a) of paragraph (2) are that—

- (a) the relevant persons have consented in writing whether before or after the coming into force of these Regulations to the embryo in question being stored for a period in excess of ten years for the provision of treatment services; and
- (b) on any day within the relevant period, but after the coming into force of these Regulations, a registered medical practitioner has given a written opinion that one of the relevant persons, or, where they are not one of those persons, the person to be treated, is prematurely infertile or is likely to become prematurely infertile.

(4) For the purposes of sub-paragraph (b) of paragraph (3), “the relevant period” means—

- (a) the extended storage period; or
- (b) if later, ten years from the date the most recent previous written opinion was given under sub-paragraph (b) of paragraph (3).

(5) Where the statutory storage period calculated in accordance with sub-paragraph (a) of paragraph (2) would be greater than fifty five years, the statutory storage period for the purpose of that sub-paragraph shall be fifty five years.

Transitional provision for gametes: statutory storage period

7.—(1) Except where regulation 8 applies, this paragraph applies to any gamete that is in storage on the date that these Regulations come into force.

(2) Where paragraph (1) applies, the statutory storage period for any gamete shall be—

- (a) subject to paragraph (5), where the circumstances in paragraph (3) are met, the period beginning with the date on which the gamete was first placed in storage and ending ten years after the date of the most recent written opinion given under sub-paragraph (b) of paragraph (3); or
- (b) ten years where those circumstances are not met.

(3) The circumstances referred to in sub-paragraph (a) of paragraph (2) are that—

- (a) the person who provided the gamete in question has consented in writing, whether before or after the coming into force of these Regulations, to the gamete being stored for a period in excess of ten years for the provision of treatment services; and
- (b) on any day within the relevant period, but after the coming into force of these Regulations, a registered medical practitioner has given a written opinion that the gamete provider, or, where they are not that person, the person to be treated, is prematurely infertile or is likely to become prematurely infertile.

(4) For the purposes of sub-paragraph (b) of paragraph (3), “the relevant period” means ten years from the date that—

- (a) the gamete in question was first placed in storage; or
- (b) if later, the most recent previous written opinion was given under sub-paragraph (b) of paragraph (3).

(5) Where the statutory storage period calculated in accordance with sub-paragraph (a) of paragraph (2) would be greater than fifty five years, the statutory storage period for the purpose of that paragraph shall be fifty five years.

Transitional provision for gametes: extended storage period

8.—(1) This paragraph applies to any gamete that is in storage on the date that these Regulations come into force in relation to which a storage period in excess of ten years applies by virtue of the 1991 Regulations (“the extended storage period”).

- (2) Where paragraph (1) applies the statutory storage period for the gamete shall be—
 - (a) subject to paragraph (5), where the circumstances in paragraph (3) are met, the period beginning with the date on which the gamete was first placed in storage and ending ten years after the date of the most recent written opinion given under sub-paragraph (b) of paragraph (3); or
 - (b) the extended storage period where those circumstances are not met.
- (3) The circumstances referred to in sub-paragraph (a) of paragraph (2) are that—
 - (a) the person who provided the gamete in question has consented in writing, whether before or after the coming into force of these Regulations, to the gamete being stored for a period in excess of ten years for the provision of treatment services; and
 - (b) on any day within the relevant period, but after the coming into force of these Regulations, a registered medical practitioner has given a written opinion that the gamete provider, or, where they are not that person, the person to be treated, is prematurely infertile or is likely to become prematurely infertile.
- (4) For the purposes of sub-paragraph (b) of paragraph (3), “the relevant period” means—
 - (a) the extended storage period; or
 - (b) if later, ten years from the date the most recent previous written opinion was given under sub-paragraph (b) of paragraph (3).

(5) Where the statutory storage period calculated in accordance with sub-paragraph (a) of paragraph (2) would be greater than fifty five years, the statutory storage period for the purpose of that paragraph shall be fifty five years.

Revocations and savings

9.—(1) Subject to paragraphs (2) and (3) the 1991 Regulations and the 1996 Regulations are revoked.

- (2) The 1991 Regulations shall continue to have effect for the purposes of regulation 8.
- (3) The 1996 Regulations shall continue to have effect for the purposes of regulation 6.