

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

SCHEDULES

SCHEDULE 6

Section 56

AMENDMENTS RELATING TO PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

PART 1

GENERAL

Population (Statistics) Act 1938 (c. 12)

- 1 (1) In the Schedule to the Population (Statistics) Act 1938 (particulars which may be required), in paragraph 1 (which relates to the registration of a birth)—
- (a) in paragraph (b), after “child,” insert “ or as a parent of the child by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, ”, and
 - (b) in paragraph (c)—
 - (i) in sub-paragraph (i), after “marriage” insert “ or of their formation of a civil partnership ”, and
 - (ii) at the beginning of each of sub-paragraphs (ii) and (iii) insert “ where the parents are married, ”.
- (2) Sub-paragraph (1)(b)(ii) does not extend to Scotland.

Commencement Information

- I1** Sch. 6 para. 1 wholly in force at 1.9.2009; Sch. 6 para. 1 not in force at Royal Assent see s. 68; Sch. 6 para. 1 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Births and Deaths Registration Act 1953 (c. 20)

- 2 In section 1 of the Births and Deaths Registration Act 1953 (particulars of births to be registered) after subsection (2) insert—
- “(3) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in subsection (2)(a) to the father of the child is to be read as a reference to the woman who is a parent by virtue of that section.”

Commencement Information

- I2** Sch. 6 para. 2 wholly in force at 1.9.2009; Sch. 6 para. 2 not in force at Royal Assent see s. 68; Sch. 6 para. 2 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

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- 3 In section 2 of the Births and Deaths Registration Act 1953 (information concerning birth to be given to registrar within 42 days), renumber the existing provision as subsection (1) of the section and at the end insert—

“(2) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the references in subsection (1) to the father of the child are to be read as references to the woman who is a parent by virtue of that section.”

Commencement Information

- I3** Sch. 6 para. 3 wholly in force at 1.9.2009; Sch. 6 para. 3 not in force at Royal Assent see s. 68; Sch. 6 para. 3 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 4 In section 9(4) of the Births and Deaths Registration Act 1953 (giving of information to a person other than the registrar), after “that section,” insert “ or under paragraph (b), (c) or (d) of subsection (1B) of that section, ”.

Commencement Information

- I4** Sch. 6 para. 4 wholly in force at 1.9.2009; Sch. 6 para. 4 not in force at Royal Assent see s. 68; Sch. 6 para. 4 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 5 (1) Section 10 of the Births and Deaths Registration Act 1953 (registration of father where parents not married) is amended as follows.

(2) For the heading to the section substitute “ Registration of father where parents not married or of second female parent where parents not civil partners ”.

(3) After subsection (1A) insert—

“(1B) Notwithstanding anything in the foregoing provisions of this Act and subject to section 10ZA of this Act, in the case of a child to whom section 1(3) of the Family Law Reform Act 1987 does not apply no woman shall as a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 be required to give information concerning the birth of the child, and the registrar shall not enter in the register the name of any woman as a parent of the child by virtue of that section except—

(a) at the joint request of the mother and the person stating herself to be the other parent of the child (in which case that person shall sign the register together with the mother); or

(b) at the request of the mother on production of—

(i) a declaration in the prescribed form made by the mother stating that the person to be registered (“the woman concerned”) is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and

(ii) a statutory declaration made by the woman concerned stating herself to be a parent of the child by virtue of section 43 of that Act; or

(c) at the request of the woman concerned on production of—

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- (i) a declaration in the prescribed form made by the woman concerned stating herself to be a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and
 - (ii) a statutory declaration made by the mother stating that the woman concerned is a parent of the child by virtue of section 43 of that Act; or
 - (d) at the request of the mother or the woman concerned on production of—
 - (i) a copy of any agreement made between them under section 4ZA(1)(b) of the Children Act 1989 in relation to the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with section 4ZA of that Act and has not been brought to an end by an order of a court; or
 - (e) at the request of the mother or the woman concerned on production of—
 - (i) a certified copy of an order under section 4ZA of the Children Act 1989 giving the woman concerned parental responsibility for the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end by an order of a court; or
 - (f) at the request of the mother or the woman concerned on production of—
 - (i) a certified copy of an order under paragraph 1 of Schedule 1 to the Children Act 1989 which requires the woman concerned to make any financial provision for the child and which is not an order falling within paragraph 4(3) of that Schedule; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court.”
- (4) After subsection (2) insert—
 - “(2A) Where, in the case of a child to whom section 1(3) of the Family Law Reform Act 1987 does not apply, a person stating herself to be a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 makes a request to the registrar in accordance with any of paragraphs (c) to (f) of subsection (1B)—
 - (a) she shall be treated as a qualified informant concerning the birth of the child for the purposes of this Act; and
 - (b) the giving of information concerning the birth of the child by that person and the signing of the register by her in the presence of the registrar shall act as a discharge of any duty of any other qualified informant under section 2 of this Act.”

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Commencement Information

- I5** Sch. 6 para. 5 wholly in force at 1.9.2009; Sch. 6 para. 5 not in force at Royal Assent see s. 68; Sch. 6 para. 5 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

6 For section 10ZA of the Births and Deaths Registration Act 1953 substitute—

“10ZA Registration of father or second female parent by virtue of certain provisions of Human Fertilisation and Embryology Act 2008

- (1) Notwithstanding anything in the foregoing provisions of this Act, the registrar shall not enter in the register—
- (a) as the father of a child, the name of a man who is to be treated for that purpose as the father of the child by virtue of section 39(1) or 40(1) or (2) of the Human Fertilisation and Embryology Act 2008 (circumstances in which man to be treated as father of child for purposes of registration of birth where fertility treatment undertaken after his death); or
 - (b) as a parent of the child, the name of a woman who is to be treated for that purpose as a parent of the child by virtue of section 46(1) or (2) of that Act (circumstances in which woman to be treated as parent of child for purposes of registration of birth where fertility treatment undertaken after her death),
- unless the condition in subsection (2) below is satisfied.
- (2) The condition in this subsection is satisfied if—
- (a) the mother requests the registrar to make such an entry in the register and produces the relevant documents; or
 - (b) in the case of the death or inability of the mother, the relevant documents are produced by some other person who is a qualified informant.
- (3) In this section “the relevant documents” means—
- (a) the consent in writing and election mentioned in section 39(1), 40(1) or (2) or 46(1) or (2) (as the case requires) of the Human Fertilisation and Embryology Act 2008;
 - (b) a certificate of a registered medical practitioner as to the medical facts concerned; and
 - (c) such other documentary evidence (if any) as the registrar considers appropriate.”

Commencement Information

- I6** Sch. 6 para. 6 wholly in force at 1.9.2009; Sch. 6 para. 6 not in force at Royal Assent see s. 68; Sch. 6 para. 6 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

7 (1) Section 10A of the Births and Deaths Registration Act 1953 (re-registration where parents not married) is amended as follows.

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- (2) For the heading to the section substitute “ Re-registration where parents neither married nor civil partners ”.
- (3) In subsection (1)—
- (a) after “as the father of the child” insert “ (or as a parent of the child by virtue of section 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008) ”, and
 - (b) for paragraph (ff) substitute—
 - “(ff) in the case of a man who is to be treated as the father of the child by virtue of section 39(1) or 40(1) or (2) of the Human Fertilisation and Embryology Act 2008, if the condition in section 10ZA(2) of this Act is satisfied; or”.
- (4) After subsection (1A) insert—
- “(1B) Where there has been registered under this Act the birth of a child to whom section 1(3) of the Family Law Reform Act 1987 does not apply, but no person has been registered as a parent of the child by virtue of section 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008 (or as the father of the child), the registrar shall re-register the birth so as to show a woman (“the woman concerned”) as a parent of the child by virtue of section 43 or 46(1) or (2) of that Act—
- (a) at the joint request of the mother and the woman concerned; or
 - (b) at the request of the mother on production of—
 - (i) a declaration in the prescribed form made by the mother stating that the woman concerned is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and
 - (ii) a statutory declaration made by the woman concerned stating herself to be a parent of the child by virtue of section 43 of that Act; or
 - (c) at the request of the woman concerned on production of—
 - (i) a declaration in the prescribed form made by the woman concerned stating herself to be a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and
 - (ii) a statutory declaration made by the mother stating that the woman concerned is a parent of the child by virtue of section 43 of that Act; or
 - (d) at the request of the mother or the woman concerned on production of—
 - (i) a copy of an agreement made between them under section 4ZA(1)(b) of the Children Act 1989 in relation to the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with section 4ZA of that Act and has not been brought to an end by an order of a court; or
 - (e) at the request of the mother or the woman concerned on production of—

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- (i) a certified copy of an order under section 4ZA of the Children Act 1989 giving the woman concerned parental responsibility for the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end by an order of a court; or
- (f) at the request of the mother or the woman concerned on production of—
- (i) a certified copy of an order under paragraph 1 of Schedule 1 to the Children Act 1989 which requires the woman concerned to make any financial provision for the child and which is not an order falling within paragraph 4(3) of that Schedule; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court; or
- (g) in the case of a woman who is to be treated as a parent of the child by virtue of section 46(1) or (2) of the Human Fertilisation and Embryology Act 2008, if the condition in section 10ZA(2) of this Act is satisfied.”
- (5) In subsection (2), for paragraphs (b) to (c) substitute—
- “(b) in the case of any of the following requests—
- (i) a request under subsection (1)(a) or (b) or subsection (1B)(a) or (b);
 - (ii) a request under subsection (1)(d), (e), (f) or (g) or subsection (1B)(d), (e) or (f) made by the mother of the child,
- the mother shall also sign the register;
- (bb) in a case within subsection (1)(ff) or (1B)(g), the mother or (as the case may be) the qualified informant shall also sign the register;
- (c) in the case of a request made under subsection (1)(a) or (c) or a request made under subsection (1)(d), (e), (f) or (g) by the person requesting to be registered as the father of the child, that person shall also sign the register;
- (cc) in the case of a request made under subsection (1B)(a) or (c) or a request made under subsection (1B)(d), (e) or (f) by a woman requesting to be registered as a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, that woman shall also sign the register; and”.

Commencement Information

I7 Sch. 6 para. 7 wholly in force at 1.9.2009; Sch. 6 para. 7 not in force at Royal Assent see s. 68; Sch. 6 para. 7 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

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“(1ZA) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in subsection (1)(b) to the father of the child is to be read as a reference to the woman who is a parent of the child by virtue of that section.”

Commencement Information

18 Sch. 6 para. 8 wholly in force at 1.9.2009; Sch. 6 para. 8 not in force at Royal Assent see s. 68; Sch. 6 para. 8 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 9 (1) Section 14 of the Births and Deaths Registration Act 1953 (re-registration of births of legitimated persons) is amended as follows.
- (2) In subsection (1), in the proviso—
- (a) in paragraph (a), after “legitimated person” insert “, or herself to be a parent of the legitimated person by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, ”, and
- (b) in paragraph (b), after “the paternity of the legitimated person” insert “ (or, as the case may be, the parentage of the legitimated person by virtue of section 43 of that Act), ”.
- (3) In subsection (2)—
- (a) after “the marriage of his parents” insert “ or on their becoming civil partners of each other ”, and
- (b) after “the date of the marriage” insert “ or of the formation of the civil partnership ”.

Commencement Information

19 Sch. 6 para. 9 wholly in force at 1.9.2009; Sch. 6 para. 9 not in force at Royal Assent see s. 68; Sch. 6 para. 9 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 10 (1) Section 29A of the Births and Deaths Registration Act 1953 (alternative procedure for certain corrections) is amended as follows.
- (2) In subsection (1) for the words from “the father” to the end substitute “—
- (a) the father of the person to whose birth or death the entry relates; or
- (b) a parent of that person (having been so registered on the basis of being such a parent by virtue of 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008).”
- (3) In subsection (3), after “not the father” insert “ or, as the case may be, that the person shown as a parent was not such a parent by virtue of 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008 ”.

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Commencement Information

- I10** Sch. 6 para. 10 wholly in force at 1.9.2009; Sch. 6 para. 10 not in force at Royal Assent see s. 68; Sch. 6 para. 10 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (c. 58)

- 11 (1) Section 3A of the Births, Deaths and Marriages (Special Provisions) Act 1957 (alternative procedure for certain corrections) is amended as follows.
- (2) In subsection (1) for the words from “the father” to the end substitute “—
- (a) the father of the person to whose birth or death the entry relates, or
 - (b) a parent of that person (having been so registered on the basis of being such a parent by virtue of 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008).”
- (3) In subsection (3), after “not the father” insert “ or, as the case may be, that the person shown as a parent was not such a parent by virtue of 42, 43 or 46(1) or (2) of the Human Fertilisation and Embryology Act 2008 ”.

Commencement Information

- I11** Sch. 6 para. 11 wholly in force at 1.9.2009; Sch. 6 para. 11 not in force at Royal Assent see s. 68; Sch. 6 para. 11 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 12 At the end of section 5 of the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 (registration of births of legitimated persons in the service departments registers) insert—
- “(3) In relation to a person who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008—
- (a) any reference to the person's father is a reference to the woman who is a parent by virtue of that section,
 - (b) the reference in subsection (1) to the subsequent marriage of the person's parents is a reference to their subsequent formation of a civil partnership, and
 - (c) the reference in that subsection to paternity is a reference to parentage by virtue of section 43 of that Act.”

Commencement Information

- I12** Sch. 6 para. 12 wholly in force at 1.9.2009; Sch. 6 para. 12 not in force at Royal Assent see s. 68; Sch. 6 para. 12 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Family Law Reform Act 1969 (c. 46)

- 13 In section 25 of the Family Law Reform Act 1969 (interpretation of Part 3), in the definition of “excluded”—

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- (a) for “and to” substitute “, to”, and
- (b) after “1990” insert “ and to sections 33 to 47 of the Human Fertilisation and Embryology Act 2008 ”.

Congenital Disabilities (Civil Liability) Act 1976 (c. 28)

- 14 In section 1 of the Congenital Disabilities (Civil Liability) Act 1976 (civil liability to child born disabled), after subsection (4) insert—

“(4A) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in subsection (4) to the child's father includes a reference to the woman who is a parent by virtue of that section.”

- 15 In section 4 of the Congenital Disabilities (Civil Liability) Act 1976 (interpretation and other supplementary provisions), at the end of subsection (4A) insert “ or sections 33 to 47 of the Human Fertilisation and Embryology Act 2008. ”

Legitimacy Act 1976 (c. 31)

- 16 After section 2 of the Legitimacy Act 1976 (legitimation by subsequent marriage of parents) insert—

“2A Legitimation by subsequent civil partnership of parents

Subject to the following provisions of this Act, where—

- (a) a person (“the child”) has a parent (“the female parent”) by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent),
- (b) at the time of the child's birth, the female parent and the child's mother are not civil partners of each other,
- (c) the female parent and the child's mother subsequently enter into a civil partnership, and
- (d) the female parent is at the date of the formation of the civil partnership domiciled in England and Wales,

the civil partnership shall render the child, if living, legitimate from the date of the formation of the civil partnership.”

Commencement Information

I13 Sch. 6 para. 16 wholly in force at 1.9.2009; Sch. 6 para. 16 not in force at Royal Assent see s. 68; Sch. 6 para. 16 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 17 In section 3 of the Legitimacy Act 1976 (legitimation by extraneous law), renumber the existing provision as subsection (1) of the section and at the end insert—

“(2) Subject to the following provisions of this Act, where—

- (a) a person (“the child”) has a parent (“the female parent”) by virtue of section 43 of the Human Fertilisation and Embryology Act 2008

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- (treatment provided to woman who agrees that second woman to be parent),
- (b) at the time of the child's birth, the female parent and the child's mother are not civil partners of each other,
 - (c) the female parent and the child's mother subsequently enter into a civil partnership, and
 - (d) the female parent is not at the time of the formation of the civil partnership domiciled in England and Wales but is domiciled in a country by the law of which the child became legitimated by virtue of the civil partnership,

the child, if living, shall in England and Wales be recognised as having been so legitimated from the date of the formation of the civil partnership notwithstanding that, at the time of the child's birth, the female parent was domiciled in a country the law of which did not permit legitimation by subsequent civil partnership.”

Commencement Information

I14 Sch. 6 para. 17 wholly in force at 1.9.2009; Sch. 6 para. 17 not in force at Royal Assent see s. 68; Sch. 6 para. 17 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 18 In section 9 of the Legitimacy Act 1976 (re-registration of birth of legitimated persons)—
- (a) in subsection (1), after “marriage” insert “ or of the formation of the civil partnership ”, and
 - (b) in subsection (3), after “marriage” insert “ or civil partnership ”.

Commencement Information

I15 Sch. 6 para. 18 wholly in force at 1.9.2009; Sch. 6 para. 18 not in force at Royal Assent see s. 68; Sch. 6 para. 18 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 19 In section 10 of the Legitimacy Act 1976 (interpretation), in the definition of “legitimated person”, in paragraph (a), after “section 2” insert “, 2A ”.

Commencement Information

I16 Sch. 6 para. 19 wholly in force at 1.9.2009; Sch. 6 para. 19 not in force at Royal Assent see s. 68; Sch. 6 para. 19 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Magistrates' Courts Act 1980 (c. 43)

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Textual Amendments

- F1** Sch. 6 para. 20 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 99 Table; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Supreme Court Act 1981 (c. 54)

- 21 In Schedule 1 to the Supreme Court Act 1981 (distribution of business in High Court), in paragraph 3(f), for sub-paragraph (iv) substitute—
“(iv) section 54 of the Human Fertilisation and Embryology Act 2008;”.

British Nationality Act 1981 (c. 61)

- 22 In section 50 of the British Nationality Act 1981 (interpretation) in subsection (9A) (a child's father) for paragraphs (b) and (c) substitute—
“(b) where a person is treated as the father of the child under section 28 of the Human Fertilisation and Embryology Act 1990 or section 35 or 36 of the Human Fertilisation and Embryology Act 2008, that person, or
(ba) where a person is treated as a parent of the child under section 42 or 43 of the Human Fertilisation and Embryology Act 2008, that person, or
(c) where none of paragraphs (a) to (ba) applies, a person who satisfies prescribed requirements as to proof of paternity.”

Family Law Act 1986 (c. 55)

- 23 In section 56 of the Family Law Act 1986 (declarations of parentage, legitimacy or legitimation), in subsection (5)(a), after “section 2” insert “, 2A”.

Commencement Information

- I17** Sch. 6 para. 23 wholly in force at 1.9.2009; Sch. 6 para. 23 not in force at Royal Assent see s. 68; Sch. 6 para. 23 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Family Law Reform Act 1987 (c. 42)

- 24 (1) Section 1 of the Family Law Reform Act 1987 (general principle) is amended as follows.
(2) In subsection (3) (children whose father and mother are to be taken to have been married to each other at the time of the child's birth) after paragraph (b) insert—
“(ba) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008 (which relates to treatment provided to a woman who is at the time of treatment a party to a civil partnership or, in certain circumstances, a void civil partnership);

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- (bb) has a parent by virtue of section 43 of that Act (which relates to treatment provided to woman who agrees that second woman to be parent) who—
 - (i) is the civil partner of the child's mother at the time of the child's birth, or
 - (ii) was the civil partner of the child's mother at any time during the period beginning with the time mentioned in section 43(b) of that Act and ending with the child's birth;”.
- (3) After subsection (4) insert—
 - “(5) A child whose parents are parties to a void civil partnership shall, subject to subsection (6), be treated as falling within subsection (3)(bb) if at the time when the parties registered as civil partners of each other both or either of the parties reasonably believed that the civil partnership was valid.
 - (6) Subsection (5) applies only where the woman who is a parent by virtue of section 43 was domiciled in England and Wales at the time of the birth or, if she died before the birth, was so domiciled immediately before her death.
 - (7) Subsection (5) applies even though the belief that the civil partnership was valid was due to a mistake as to law.
 - (8) It shall be presumed for the purposes of subsection (5), unless the contrary is shown, that one of the parties to a void civil partnership reasonably believed at the time of the formation of the civil partnership that the civil partnership was valid.”
- 25 (1) Section 18 of the Family Law Reform Act 1987 (succession on intestacy) is amended as follows.
 - (2) After subsection (2) insert—
 - “(2A) In the case of a person who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent), the second and third references in subsection (2) to the person's father are to be read as references to the woman who is a parent of the person by virtue of that section.”
 - (3) In subsection (3), for “section 50(1) of that Act” substitute “ section 50(1) of the Administration of Estates Act 1925 ”.

Children Act 1989 (c. 41)

- 26 (1) Section 2 of the Children Act 1989 (parental responsibility for children) is amended as follows.
 - (2) After subsection (1) insert—
 - “(1A) Where a child—
 - (a) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008; or
 - (b) has a parent by virtue of section 43 of that Act and is a person to whom section 1(3) of the Family Law Reform Act 1987 applies,
 the child's mother and the other parent shall each have parental responsibility for the child.”

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

(3) After subsection (2) insert—

“(2A) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom section 1(3) of the Family Law Reform Act 1987 applies—

- (a) the mother shall have parental responsibility for the child;
- (b) the other parent shall have parental responsibility for the child if she has acquired it (and has not ceased to have it) in accordance with the provisions of this Act.”

Commencement Information

I18 Sch. 6 para. 26 wholly in force at 1.9.2009; Sch. 6 para. 26 not in force at Royal Assent see s. 68; Sch. 6 para. 26 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

27 After section 4 of the Children Act 1989 insert—

“4ZA Acquisition of parental responsibility by second female parent

- (1) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom section 1(3) of the Family Law Reform Act 1987 applies, that parent shall acquire parental responsibility for the child if—
 - (a) she becomes registered as a parent of the child under any of the enactments specified in subsection (2);
 - (b) she and the child's mother make an agreement providing for her to have parental responsibility for the child; or
 - (c) the court, on her application, orders that she shall have parental responsibility for the child.
- (2) The enactments referred to in subsection (1)(a) are—
 - (a) paragraphs (a), (b) and (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953;
 - (b) paragraphs (a), (b) and (d) of section 18B(1) and sections 18B(3)(a) and 20(1)(a) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965; and
 - (c) sub-paragraphs (a), (b) and (c) of Article 14ZA(3) of the Births and Deaths Registration (Northern Ireland) Order 1976.
- (3) The Secretary of State may by order amend subsection (2) so as to add further enactments to the list in that subsection.
- (4) An agreement under subsection (1)(b) is also a “parental responsibility agreement”, and section 4(2) applies in relation to such an agreement as it applies in relation to parental responsibility agreements under section 4.
- (5) A person who has acquired parental responsibility under subsection (1) shall cease to have that responsibility only if the court so orders.
- (6) The court may make an order under subsection (5) on the application—
 - (a) of any person who has parental responsibility for the child; or

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(b) with the leave of the court, of the child himself,
 subject, in the case of parental responsibility acquired under subsection (1)
 (c), to section 12(4).

(7) The court may only grant leave under subsection (6)(b) if it is satisfied that
 the child has sufficient understanding to make the proposed application.”

Commencement Information

I19 Sch. 6 para. 27 wholly in force at 1.9.2009; Sch. 6 para. 27 not in force at Royal Assent see s. 68; Sch. 6 para. 27 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

28 (1) Section 12 of the Children Act 1989 (residence orders and parental responsibility) is amended as follows.

(2) After subsection (1) insert—

“(1A) Where the court makes a residence order in favour of a woman who is a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 it shall, if that woman would not otherwise have parental responsibility for the child, also make an order under section 4ZA giving her that responsibility.”

(3) In subsection (4)—

- (a) after “(1)” insert “ or (1A) ”,
- (b) after “4” insert “ or 4ZA ”, and
- (c) for “father” substitute “ parent ”.

Commencement Information

I20 Sch. 6 para. 28 wholly in force at 1.9.2009; Sch. 6 para. 28 not in force at Royal Assent see s. 68; Sch. 6 para. 28 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

29 In section 91 of the Children Act 1989 (effect and duration of orders)—

- (a) in subsection (7), after “4(1),” insert “ 4ZA(1), ”, and
 “ , 4ZA ”
- (b) in subsection (8)(a), after “4” insert.

Commencement Information

I21 Sch. 6 para. 29 wholly in force at 1.9.2009; Sch. 6 para. 29 not in force at Royal Assent see s. 68; Sch. 6 para. 29 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

30 In section 104 of the Children Act 1989 (regulations and orders)—

- (a) in subsection (2), after “4(1B),” insert “ 4ZA(3), ”, and
- (b) in subsection (3), after “4(1B)” insert “ , 4ZA(3) ”.

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Commencement Information

I22 Sch. 6 para. 30 wholly in force at 1.9.2009; Sch. 6 para. 30 not in force at Royal Assent see s. 68; Sch. 6 para. 30 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 31 In section 105 of the Children Act 1989 (interpretation), in subsection (1), in the definition of “parental responsibility agreement”, after “sections 4(1)” insert “, 4ZA(4)”.

Commencement Information

I23 Sch. 6 para. 31 wholly in force at 1.9.2009; Sch. 6 para. 31 not in force at Royal Assent see s. 68; Sch. 6 para. 31 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 32 (1) Schedule 1 to the Children Act 1989 (financial provision for children) is amended as follows.

- (2) At the end of paragraph 4 insert—

“(5) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, any reference in subparagraph (2), (3) or (4) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.”

- (3) At the end of paragraph 10 insert—

“(8) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in subparagraph (1)(a) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.”

Commencement Information

I24 Sch. 6 para. 26 wholly in force at 1.9.2009; Sch. 6 para. 26 not in force at Royal Assent see s. 68; Sch. 6 para. 26 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Human Fertilisation and Embryology Act 1990 (c. 37)

- 33 (1) Section 32 of the 1990 Act (information to be provided to Registrar General) is amended as follows.

- (2) In subsection (1)—

- (a) for “man” substitute “ person ”, and
(b) for “father” substitute “ parent ”.

- (3) In subsection (2), for the words from “that the man” to “section 28 of this Act” substitute “ that the person may be a parent of the child by virtue of any of the relevant statutory provisions ”.

- (4) After subsection (2) insert—

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

“(2A) In subsection (2) “the relevant statutory provisions” means—

- (a) section 28 of this Act, and
- (b) sections 35 to 47 of the Human Fertilisation and Embryology Act 2008.”

34 In section 34 of the 1990 Act (disclosure in the interests of justice), in subsection (1), after “of this Act” insert “ or sections 33 to 47 of the Human Fertilisation and Embryology Act 2008 ”.

35 (1) Section 35 of the 1990 Act (disclosure of information in the interests of justice: congenital disabilities etc.) is amended as follows.

(2) In subsections (1) and (2), for “sections 27 to 29 of this Act” substitute “ the relevant statutory provisions ”.

(3) After subsection (2) insert—

“(2A) In subsections (1) and (2) “the relevant statutory provisions” means—

- (a) sections 27 to 29 of this Act, and
- (b) sections 33 to 47 of the Human Fertilisation and Embryology Act 2008.”

Child Support Act 1991 (c. 48)

36 In section 26 of the Child Support Act 1991 (disputes about parentage), in subsection (2), for Cases B and B1 substitute—

“CASE B

Where the alleged parent is a parent of the child in question by virtue of an order under section 30 of the Human Fertilisation and Embryology Act 1990 or section 54 of the Human Fertilisation and Embryology Act 2008 (parental orders).

CASE B1

Where the Secretary of State is satisfied that the alleged parent is a parent of the child in question by virtue of section 27 or 28 of the Human Fertilisation and Embryology Act 1990 or any of sections 33 to 46 of the Human Fertilisation and Embryology Act 2008 (which relate to children resulting from assisted reproduction).”

Commencement Information

I25 [Sch. 6 para. 36](#) wholly in force at 6.4.2010; [Sch. 6 para. 36](#) not in force at Royal Assent see [s. 68](#); [Sch. 6 para. 36](#) in force for certain purposes at 6.4.2009 by [S.I. 2009/479](#), [art. 6\(d\)](#) (with [Sch.](#)); [Sch. 6 para. 36](#) otherwise in force 6.4.2010 by [S.I. 2010/987](#), [art. 2\(g\)](#)

Family Law Act 1996 (c. 27)

37 In section 63 of the Family Law Act 1996 (definition of family proceedings), in subsection (2), for paragraph (h) substitute—

“(h) section 54 of the Human Fertilisation and Embryology Act 2008;”.

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

Access to Justice Act 1999 (c. 22)

F238

Textual Amendments

F2 Sch. 6 para. 38 repealed (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 5 Pt. 2; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)

Adoption and Children Act 2002 (c. 38)

39 (1) Section 51 of the Adoption and Children Act 2002 (adoption by one person) is amended as follows.

(2) In subsection (4), for paragraph (b) substitute—

“(b) by virtue of the provisions specified in subsection (5), there is no other parent, or”.

(3) After subsection (4) insert—

“(5) The provisions referred to in subsection (4)(b) are—

- (a) section 28 of the Human Fertilisation and Embryology Act 1990 (disregarding subsections (5A) to (5I) of that section), or
- (b) sections 34 to 47 of the Human Fertilisation and Embryology Act 2008 (disregarding sections 39, 40 and 46 of that Act).”

Commencement Information

I26 Sch. 6 para. 26 wholly in force at 1.9.2009; Sch. 6 para. 26 not in force at Royal Assent see s. 68; Sch. 6 para. 26 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Mental Capacity Act 2005 (c. 9)

40 In section 27 of the Mental Capacity Act 2005 (family relationships), in subsection (1), after paragraph (h) insert—

“(i) giving a consent under the Human Fertilisation and Embryology Act 2008.”

PART 2

ENACTMENTS RELATING ONLY TO SCOTLAND

Children and Young Persons (Scotland) Act 1937 (c. 37)

41 In section 110(1) of the Children and Young Persons (Scotland) Act 1937 (interpretation), in the definition of “parental responsibilities”—

- (a) the words from “a father” to the end become paragraph (a), and
- (b) after that paragraph insert—

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“(b) a second female parent would have as a parent but for the operation of section 3(1)(d) of that Act.”

Commencement Information

I27 Sch. 6 para. 41 wholly in force at 1.9.2009; Sch. 6 para. 41 not in force at Royal Assent see s. 68; Sch. 6 para. 41 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49)

42 In section 14 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (duty to give information of particulars of birth), after subsection (4) insert—

“(4A) In the case of a child who has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008, the references in subsections (1) and (2) to the father of the child are to be read as references to the woman who is a parent by virtue of that section.”

Commencement Information

I28 Sch. 6 para. 42 wholly in force at 1.9.2009; Sch. 6 para. 42 not in force at Royal Assent see s. 68; Sch. 6 para. 42 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

43 For section 18ZA of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 substitute—

“18ZA Registration of father or second female parent by virtue of certain provisions of the Human Fertilisation and Embryology Act 2008

- (1) The registrar shall not enter in the register—
- (a) as the father of a child the name of a man who is to be treated for that purpose as the father of the child by virtue of section 39(1) or 40(1) or (2) of the Human Fertilisation and Embryology Act 2008 (circumstances in which man to be treated as father of child for purpose of registration of birth where fertility treatment undertaken after his death); or
 - (b) as a parent of the child, the name of a woman who is to be treated for that purpose as a parent of the child by virtue of section 46(1) or (2) of that Act (circumstances in which woman to be treated as parent of child for purposes of registration of birth where fertility treatment undertaken after her death),
- unless the condition in subsection (2) below is satisfied.
- (2) The condition in this subsection is satisfied if—
- (a) the mother requests the registrar to make such an entry in the register and produces the relevant documents; or
 - (b) in the case of the death or inability of the mother, the relevant documents are produced by some other person who is a qualified informant.

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- (3) In this section “the relevant documents” means—
- (a) the consent in writing and election mentioned in section 39(1), 40(1) or (2) or 46(1) or (2) (as the case requires) of the Human Fertilisation and Embryology Act 2008;
 - (b) a certificate of a registered medical practitioner as to the medical facts concerned; and
 - (c) such other documentary evidence (if any) as the registrar considers appropriate.”

Commencement Information

I29 Sch. 6 para. 43 wholly in force at 1.9.2009; Sch. 6 para. 43 not in force at Royal Assent see s. 68; Sch. 6 para. 43 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

44 After section 18A of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 insert—

“18B Births of children where second female parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008

- (1) No woman shall as a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (“the woman concerned”) be required, as a parent of the child, to give information concerning the birth of the child and, save as provided in section 20 of this Act, the district registrar for the registration district shall not enter in the birth registration form concerning the birth the name and surname of any woman as a parent of the child by virtue of section 43 of that Act of 2008 except—
- (a) at the joint request of the mother and the woman concerned (in which case the woman concerned shall attest, in the prescribed manner, the birth registration form together with the mother); or
 - (b) at the request of the mother on production of—
 - (i) a declaration in the prescribed form made by the mother stating that the woman concerned is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and
 - (ii) a statutory declaration made by the woman concerned acknowledging herself to be a parent of the child by virtue of section 43 of that Act; or
 - (c) at the request of the mother on production of a decree by a competent court finding or declaring the woman concerned to be a parent of the child by virtue of section 43 of that Act; or
 - (d) at the request of the woman concerned on production of—
 - (i) a declaration in the prescribed form made by the woman concerned acknowledging herself to be a parent of the child by virtue of section 43 of that Act; and
 - (ii) a statutory declaration made by the mother stating that the woman concerned is a parent of the child by virtue of section 43 of that Act.

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- (2) Where a person acknowledging herself to be a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 makes a request to the district registrar for the registration district in accordance with paragraph (d) of subsection (1) of this section, she shall be treated as a qualified informant concerning the birth of the child for the purposes of this Act; and the giving of information concerning the birth of the child by that person and the attesting of the birth registration form concerning the birth by her in the presence of the registrar shall act as a discharge of any duty of any other qualified informant under section 14 of this Act.
- (3) In any case where the name and surname of a woman who is a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 has not been entered in the birth registration form concerning the birth, the Registrar General may record that name and surname by causing an appropriate entry to be made in the Register of Corrections Etc.—
- (a) if there is produced to him a declaration and a statutory declaration such as are mentioned in paragraph (b) or (d) of subsection (1) of this section; or
 - (b) if, where the mother is dead or cannot be found or is incapable of making a request under subsection (1)(b) or (c) of this section, or a declaration under subsection (1)(b)(i) or a statutory declaration under subsection (1)(d)(ii) of this section, the Registrar General is ordered so to do by the sheriff upon application made to the sheriff by the person acknowledging herself to be a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008.”

Commencement Information

I30 Sch. 6 para. 44 wholly in force at 1.9.2009; Sch. 6 para. 44 not in force at Royal Assent see s. 68; Sch. 6 para. 44 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

45 In section 20 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965—

- (a) after subsection (1)(c) insert “, or
 - (d) the entry relating to the child in the register of births has been made so as to imply that the person, other than the mother, recorded as a parent of the child is so by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and the mother and that person have subsequently become parties to a civil partnership with each other and subject to subsection (1B) below,” and
- (b) in subsection (1B)—
 - (i) after “(c)” insert “ or (d) ”,
 - (ii) after “paternity” insert “ or parentage ”, and
 - (iii) after “18” insert “ or 18B ”.

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Commencement Information

- I31** Sch. 6 para. 45 wholly in force at 1.9.2009; Sch. 6 para. 45 not in force at Royal Assent see s. 68; Sch. 6 para. 45 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)}; (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

Family Law (Scotland) Act 1985 (c. 37)

- 46 In section 9(1)(c)(ii) of the Family Law (Scotland) Act 1985 (court to consider burden of caring for child following dissolution of civil partnership), after “family” insert “ or in respect of whom they are, by virtue of sections 33 and 42 of the Human Fertilisation and Embryology Act 2008, the parents ”.

Commencement Information

- I32** Sch. 6 para. 46 wholly in force at 1.9.2009; Sch. 6 para. 46 not in force at Royal Assent see s. 68; Sch. 6 para. 46 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)}; (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

- 47 In section 27(1) of the Family Law (Scotland) Act 1985 (interpretation), in the definition of “family”, at the end insert “ or in respect of whom they are, by virtue of sections 33 and 42 of the Human Fertilisation and Embryology Act 2008, the parents; ”.

Commencement Information

- I33** Sch. 6 para. 47 wholly in force at 1.9.2009; Sch. 6 para. 47 not in force at Royal Assent see s. 68; Sch. 6 para. 47 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)}; (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

Children (Scotland) Act 1995 (c. 36)

- 48 In section 1(1) of the Children (Scotland) Act 1995 (parental responsibilities), after “3(1)(b)” insert “ , and (d) ”.

Commencement Information

- I34** Sch. 6 para. 48 wholly in force at 1.9.2009; Sch. 6 para. 48 not in force at Royal Assent see s. 68; Sch. 6 para. 48 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)}; (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

- 49 In section 2(1) of the Children (Scotland) Act 1995 (parental rights), after “3(1)(b)” insert “ , and (d) ”.

Commencement Information

- I35** Sch. 6 para. 49 wholly in force at 1.9.2009; Sch. 6 para. 49 not in force at Royal Assent see s. 68; Sch. 6 para. 49 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)}; (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

- 50 (1) Section 3 of the Children (Scotland) Act 1995 (provisions relating both to parental responsibilities and parental rights) is amended as follows.
- (2) After subsection (1)(b), insert—
- “(c) without prejudice to any arrangements which may be made under subsection (5) below, where a child has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008, that parent has parental responsibilities and parental rights in relation to the child;
- (d) without prejudice to any arrangements which may be made under subsection (5) below and subject to any agreement which may be made under section 4A(1) of this Act, where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, that parent has parental responsibilities and parental rights in relation to the child if she is registered as a parent of the child under any of the enactments mentioned in subsection (3A).”
- (3) After subsection (3), insert—
- “(3A) Those enactments are—
- (a) paragraphs (a), (b) and (d) of section 18B(1) and section 18B(3)(a) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965;
- (b) paragraphs (a), (b) and (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953;
- (c) sub-paragraphs (a), (b) and (c) of Article 14ZA(3) of the Births and Deaths Registration (Northern Ireland) Order 1976.”
- (4) In subsection (5), for “section 4(1)” substitute “ sections 4(1) and 4A(1) ”.

Commencement Information

I36 Sch. 6 para. 50 wholly in force at 1.9.2009; Sch. 6 para. 50 not in force at Royal Assent see s. 68; Sch. 6 para. 50 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

- 51 After section 4 of the Children (Scotland) Act 1995 insert—

“4A Acquisition of parental responsibilities and parental rights by second female parent by agreement with mother

- (1) Where—
- (a) a child's mother has not been deprived of some or all of the parental responsibilities and parental rights in relation to the child; and
- (b) the child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and that parent is not registered as such under any of the enactments mentioned in section 3(3A),

the mother and the other parent may by agreement provide that, as from the appropriate date, the other parent shall have the parental responsibilities and rights (in the absence of any order under section 11 of this Act affecting

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

responsibilities and rights) as if the other parent were treated as a parent by virtue of section 42 of that Act of 2008.

- (2) Section 4(2), (3) and (4) applies in relation to an agreement under subsection (1) of this section as it applies in relation to an agreement under subsection (1) of section 4.”

Commencement Information

I37 Sch. 6 para. 51 wholly in force at 1.9.2009; Sch. 6 para. 51 not in force at Royal Assent see s. 68; Sch. 6 para. 51 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

- 52 (1) Section 11 of the Children (Scotland) Act 1995 (court orders relating to parental responsibilities) is amended as follows.

(2) In subsection (4)(c)—

- (a) for “subsection (9) of section 30 of the Human Fertilisation and Embryology Act 1990 (provision for enactments about adoption to have effect with modifications)” substitute “ section 55(1) of the Human Fertilisation and Embryology Act 2008 (parental orders: supplementary provision) ”, and
(b) for “subsection (1) of that section” substitute “ section 54 of that Act ”.

(3) In subsection (11), after “4(2)” insert “ or 4A(2) ”.

Commencement Information

I38 Sch. 6 para. 52 wholly in force at 6.4.2010; Sch. 6 para. 52 not in force at Royal Assent see s. 68; Sch. 6 para. 52 in force for certain purposes at 6.4.2009 and Sch. 6 para. 52(1)(3) in force at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3); Sch. 6 para. 52 otherwise in force 6.4.2010 by S.I. 2010/987, art. 2(g)

- 53 In section 12(4)(b) of the Children (Scotland) Act 1995 (meaning of “child of the family” in civil partnership cases)—

- (a) the words from “who” to the end become sub-paragraph (i), and
(b) after that sub-paragraph insert “; or
(ii) whose parents are the partners (being parents by virtue of sections 33 and 42 of the Human Fertilisation and Embryology Act 2008).”

Commencement Information

I39 Sch. 6 para. 53 wholly in force at 1.9.2009; Sch. 6 para. 53 not in force at Royal Assent see s. 68; Sch. 6 para. 53 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

- 54 In section 15(1) of the Children (Scotland) Act 1995 (interpretation of Part 1), in the definition of “parent”—

- (a) after “1990” insert “ and Part 2 of the Human Fertilisation and Embryology Act 2008 ”, and
(b) for “subsection (9) of the said section 30” substitute “ section 55(1) of that Act of 2008 ”.

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

Commencement Information

I40 Sch. 6 para. 54 wholly in force at 6.4.2010; Sch. 6 para. 54 not in force at Royal Assent see s. 68; Sch. 6 para. 54 in force for certain purposes at 6.4.2009 and Sch. 6 para. 54(a) in force at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3); Sch. 6 para. 54 otherwise in force 6.4.2010 by S.I. 2010/987, art. 2(g)

Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)

55 In section 1(1) of the Criminal Law (Consolidation) (Scotland) Act 1995 (offence of incest), at the end of the table set out at the end of that subsection insert—

“3. Relationships by virtue of Part 2 of the Human Fertilisation and Embryology Act 2008

Mother	Father
Daughter	Son
Second female parent by virtue of section 42 or 43 of that Act”	

Commencement Information

I41 Sch. 6 para. 55 wholly in force at 1.9.2009; Sch. 6 para. 55 not in force at Royal Assent see s. 68; Sch. 6 para. 55 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

Adoption and Children (Scotland) Act 2007 (asp 4)

56 (1) Section 30 of the Adoption and Children (Scotland) Act 2007 (adoption by one person) is amended as follows.

(2) In subsection (7), for paragraph (c) substitute—

“(c) by virtue of the provisions specified in subsection (7A), there is no other parent, or”.

(3) After subsection (7) insert—

“(7A) The provisions referred to in subsection (7)(c) are—

- (a) section 28 of the Human Fertilisation and Embryology Act 1990 (disregarding subsections (5A) to (5I) of that section), or
- (b) sections 34 to 47 of the Human Fertilisation and Embryology Act 2008 (disregarding sections 39, 40 and 46 of that Act).”

Commencement Information

I42 Sch. 6 para. 56 wholly in force at 1.9.2009; Sch. 6 para. 56 not in force at Royal Assent see s. 68; Sch. 6 para. 56 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.) (as amended (1.9.2009) by S.I. 2009/2232, art. 3)

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

PART 3

ENACTMENTS RELATING ONLY TO NORTHERN IRELAND

Legitimacy Act (Northern Ireland) 1928 (c. 5 (N.I.))

- 57 (1) Section 1 of the Legitimacy Act (Northern Ireland) 1928 (legitimation by subsequent marriage of parents) is amended as follows.
- (2) In the heading, after “marriage” insert “ or civil partnership ”.
- (3) After subsection (1) insert—
- “(1A) Subject to subsection (3), where—
- (a) a person (“the child”) has a parent (“the female parent”) by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent);
 - (b) at the time of the child's birth, the female parent and the child's mother are not civil partners of each other;
 - (c) the female parent and the child's mother subsequently enter into a civil partnership; and
 - (d) the female parent is at the date of the formation of the civil partnership domiciled in Northern Ireland,
- the civil partnership shall render the child, if living, legitimate from the date of the formation of the civil partnership.”
- 58 (1) Section 8 of the Legitimacy Act (Northern Ireland) 1928 (provisions as to persons legitimated by extraneous law) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) Where—
- (a) a person (“the child”) has a parent (“the female parent”) by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent);
 - (b) at the time of the child's birth, the female parent and the child's mother are not civil partners of each other;
 - (c) the female parent and the child's mother subsequently enter into a civil partnership; and
 - (d) the female parent is at the time of the formation of the civil partnership domiciled in a country, other than Northern Ireland, by the law of which the child became legitimated by virtue of the civil partnership;
- the child, if living, shall in Northern Ireland be recognised as having been so legitimated from the date of the formation of the civil partnership notwithstanding that, at the time of the child's birth, the female parent was not domiciled in a country the law of which permitted legitimation by subsequent civil partnership.”
- 59 In section 11 of the Legitimacy Act (Northern Ireland) 1928 (interpretation), in the definition of “date of legitimation”, after “date of the marriage” insert “ or of the formation of the civil partnership ”.

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041 (N.I. 14))

60 (1) Article 10 of the Births and Deaths Registration (Northern Ireland) Order 1976 (registration of births) is amended as follows.

(2) In paragraph (4) for “Article 14” substitute “ Articles 14 and 14ZA ”.

(3) After paragraph (4) insert—

“(4A) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the references in paragraphs (3)(a) and (4) to the father of the child are to be read as references to the woman who is a parent by virtue of that section.”

Commencement Information

I43 Sch. 6 para. 60 wholly in force at 1.9.2009; Sch. 6 para. 60 not in force at Royal Assent see s. 68; Sch. 6 para. 60 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

61 After Article 14 of the Births and Deaths Registration (Northern Ireland) Order 1976 insert—

Registration of second female parent where parents not civil partners

“14ZA(1) This Article applies, subject to Article 14A, in the case of a child who—

- (a) has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; but
- (b) is a person to whom Article 155(3) of the Children (Northern Ireland) Order 1995 (persons to be covered by references to a person whose mother and father were married to each other at the time of the person's birth) does not apply.

(2) The woman who is a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 shall not as such be under any duty to give any information under this Part concerning the birth of the child.

(3) A registrar shall not enter the name of any person as a parent of the child by virtue of that section unless—

- (a) the mother and the person stating herself to be the other parent of the child jointly request the registrar to do so and in that event the mother and that person shall sign the register in the presence of each other; or
- (b) the mother requests the registrar to do so and produces—
 - (i) a declaration in the prescribed form made by her stating that the person to be registered (“the woman concerned”) is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and
 - (ii) a statutory declaration made by the woman concerned stating herself to be a parent of the child by virtue of section 43 of that Act; or
- (c) the woman concerned requests the registrar to do so and produces—

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

- (i) a declaration in the prescribed form made by the woman concerned stating herself to be a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008; and
 - (ii) a statutory declaration made by the mother stating that the woman concerned is a parent of the child by virtue of section 43 of that Act; or
 - (d) the mother or the woman concerned requests the registrar to do so and produces—
 - (i) a copy of a parental responsibility agreement made between them in relation to the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with Article 7 of the Children (Northern Ireland) Order 1995 and has not been brought to an end by an order of a court; or
 - (e) the mother or the woman concerned requests the registrar to do so and produces—
 - (i) a certified copy of an order under Article 7 of the Children (Northern Ireland) Order 1995 giving the woman concerned parental responsibility for the child; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end by an order of a court; or
 - (f) the mother or the woman concerned requests the registrar to do so and produces—
 - (i) a certified copy of an order under paragraph 2 of Schedule 1 to the Children (Northern Ireland) Order 1995 which requires the woman concerned to make any financial provision for the child and which is not an order falling within paragraph 5(3) of that Schedule; and
 - (ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court.
- (4) Where, in the case of a child to whom Article 155(3) of the Children (Northern Ireland) Order 1995 does not apply, a person stating herself to be a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 makes a request to the registrar in accordance with any of sub-paragraphs (c) to (f) of paragraph (3)—
 - (a) she shall be treated as a qualified informant concerning the birth of the child for the purposes of this Part; and
 - (b) on the giving of the required information concerning the birth of the child by that person and the signing of the register by her in the presence of the registrar every other qualified informant shall cease to be under the duty imposed by Article 10(4).”

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

Commencement Information

I44 Sch. 6 para. 60 wholly in force at 1.9.2009; Sch. 6 para. 60 not in force at Royal Assent see s. 68; Sch. 6 para. 60 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

62 For Article 14A of the Births and Deaths Registration (Northern Ireland) Order 1976 substitute—

Registration of father or second female parent by virtue of certain provisions of Human Fertilisation and Embryology Act 2008

“14A(1) A registrar shall not enter in the register—

- (a) as the father of a child, the name of a man who is to be treated for that purpose as the father of the child by virtue of section 39(1) or 40(1) or (2) of the Human Fertilisation and Embryology Act 2008 (circumstances in which man to be treated as father of child for purposes of registration of birth where fertility treatment undertaken after his death); or
- (b) as a parent of the child, the name of a woman who is to be treated for that purpose as a parent of the child by virtue of section 46(1) or (2) of that Act (circumstances in which woman to be treated as parent of child for purposes of registration of birth where fertility treatment undertaken after her death);

unless the condition in paragraph (2) below is satisfied.

(2) The condition in this paragraph is satisfied if—

- (a) the mother requests the registrar to make such an entry in the register and produces the relevant documents; or
- (b) in the case of the death or inability of the mother, the relevant documents are produced by some other person who is a qualified informant.

(3) In this Article “the relevant documents” means—

- (a) the consent in writing and election mentioned in section 39(1), 40(1) or (2) or 46(1) or (2) (as the case requires) of the Human Fertilisation and Embryology Act 2008;
- (b) a certificate of a registered medical practitioner as to the medical facts concerned; and
- (c) such other documentary evidence (if any) as the registrar considers appropriate.”

Commencement Information

I45 Sch. 6 para. 62 wholly in force at 1.9.2009; Sch. 6 para. 62 not in force at Royal Assent see s. 68; Sch. 6 para. 62 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

63 (1) Article 18 of the Births and Deaths Registration (Northern Ireland) Order 1976 (re-registration of births) is amended as follows.

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

- (2) In paragraph (1)—
- (a) in sub-paragraph (b), after “child” insert “ who has a father and ”,
 - (b) after sub-paragraph (b) insert—
 - “(ba) in the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and to whom Article 155(3) of the Children (Northern Ireland) Order 1995 does not apply—
 - (i) the birth was registered as if Article 155(3) of that Order did apply to the child; or
 - (ii) no particulars relating to a parent of the child by virtue of section 42, 43 or 46(1) or (2) of that Act have been entered in the register; or”
 - (c) for sub-paragraph (c) substitute—
 - “(c) in the case of a person who is to be treated—
 - (i) as the father of the child by virtue of section 39(1) or 40(1) or (2) of the Human Fertilisation and Embryology Act 2008; or
 - (ii) as a parent of the child by virtue of section 46(1) or (2) of that Act;
- the condition in Article 14A(2) is satisfied.”
- (3) At the end of paragraph (1A) insert “ and re-registration under sub-paragraph (ba) (ii) shall not be authorised otherwise than in accordance with Article 14ZA(3) ”.

Commencement Information

I46 Sch. 6 para. 63 wholly in force at 1.9.2009; Sch. 6 para. 63 not in force at Royal Assent see s. 68; Sch. 6 para. 63 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 64 (1) Article 19 of the Births and Deaths Registration (Northern Ireland) Order 1976 (re-registration of births of legitimated persons) is amended as follows.
- (2) In paragraph (3)—
- (a) after sub-paragraph (a) insert—
 - “(aa) the name of a person acknowledging herself to be a parent of the legitimated person by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 has been entered in the register in pursuance of Article 14ZA or 18 of this Order; or”
 - (b) after sub-paragraph (b) insert—
 - “(ba) the parentage by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 of the legitimated person has been established by a decree of a court of competent jurisdiction; or”.
- (3) In paragraph (4), after “marriage” insert “ or the formation of the civil partnership ”.
- (4) In paragraph (5)—
- (a) after “marriage” insert “ or civil partnership ”, and

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

(b) after “date of the marriage” insert “ or the formation of the civil partnership ”.

Commencement Information

I47 Sch. 6 para. 64 wholly in force at 1.9.2009; Sch. 6 para. 64 not in force at Royal Assent see s. 68; Sch. 6 para. 64 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

65 In Article 20 of the Births and Deaths Registration (Northern Ireland) Order 1976 (registration of births of legitimated person), in paragraph (2), for “sub-paragraph (a)” substitute “ sub-paragraphs (a) and (aa) ”.

Commencement Information

I48 Sch. 6 para. 65 wholly in force at 1.9.2009; Sch. 6 para. 65 not in force at Royal Assent see s. 68; Sch. 6 para. 65 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

66 In Article 37 of the Births and Deaths Registration (Northern Ireland) Order 1976 (registration or alteration of child’s name), in paragraph (7)—

(a) after sub-paragraph (a) insert—

“(aa) in the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the mother and other parent of the child if Article 155(3) of the Children (Northern Ireland) Order 1995 applies to the child or if it does not apply but the other parent has parental responsibility for the child;”, and

(b) for sub-paragraph (b) substitute—

“(b) the mother of the child if—

(i) in the case of a child who has a father, the child’s parents were not married to each other at the time of the birth and the father does not have parental responsibility for the child; and

(ii) in the case of a child who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, Article 155(3) of the Children (Northern Ireland) Order 1995 does not apply to the child and the parent by virtue of that section of that Act does not have parental responsibility for the child;”.

Commencement Information

I49 Sch. 6 para. 66 wholly in force at 1.9.2009; Sch. 6 para. 66 not in force at Royal Assent see s. 68; Sch. 6 para. 66 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

Family Law Reform (Northern Ireland) Order 1977 (S.I. 1977/1250 (N.I. 17))

- 67 In Article 13 of the Family Law Reform (Northern Ireland) Order 1977 (interpretation of Part 3), in the definition of “excluded”, after “1990” insert “ and to sections 33 to 47 of the Human Fertilisation and Embryology Act 2008 ”.

Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))

- 68 (1) Article 15 of the Adoption (Northern Ireland) Order 1987 (adoption by one person) is amended as follows.
- (2) In paragraph (3)(a), for the words from “or, by virtue of” to “other parent” substitute “or, by virtue of the provisions specified in paragraph (3A), there is no other parent”.
- (3) After paragraph (3) insert—
- “(3A) The provisions referred to in paragraph (3)(a) are—
- (a) section 28 of the Human Fertilisation and Embryology Act 1990 (disregarding subsections (5A) to (5I) of that section), or
 - (b) sections 34 to 47 of the Human Fertilisation and Embryology Act 2008 (disregarding sections 39, 40 and 46 of that Act).”

Commencement Information

I50 Sch. 6 para. 68 wholly in force at 1.9.2009; Sch. 6 para. 74 not in force at Royal Assent see s. 68; Sch. 6 para. 74 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Child Support (Northern Ireland) Order 1991 (S.I. 1991/2628 (N.I. 23))

- 69 In Article 27 of the Child Support (Northern Ireland) Order 1991 (disputes about parentage), in paragraph (2), for Cases B and B1 substitute—

“CASE B

Where the alleged parent is a parent of the child in question by virtue of an order under section 30 of the Human Fertilisation and Embryology Act 1990 or section 54 of the Human Fertilisation and Embryology Act 2008 (parental orders).

CASE B1

Where the Department is satisfied that the alleged parent is a parent of the child in question by virtue of section 27 or 28 of the Human Fertilisation and Embryology Act 1990 or any of sections 33 to 46 of the Human Fertilisation and Embryology Act 2008 (which relate to children resulting from assisted reproduction).”

Commencement Information

I51 Sch. 6 para. 69 wholly in force at 6.4.2010; Sch. 6 para. 69 not in force at Royal Assent see s. 68; Sch. 6 para. 69 in force for certain purposes at 6.4.2009 by S.I. 2009/479, art. 6(d) (with Sch.); Sch. 6 para. 69 in force at 6.4.2010 otherwise by S.I. 2010/987, art. 2(g)

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))

- 70 In Article 2 of the Children (Northern Ireland) Order 1995, in paragraph (2), in the definition of “parental responsibility agreement”, for “Article 7(1)(b)” substitute “Article 7(1ZB)”.

Commencement Information

I52 Sch. 6 para. 70 wholly in force at 1.9.2009; Sch. 6 para. 70 not in force at Royal Assent see s. 68; Sch. 6 para. 70 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 71 (1) Article 5 of the Children (Northern Ireland) Order 1995 (parental responsibility for children) is amended as follows.

(2) After paragraph (1) insert—

“(1A) Where a child—

- (a) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008; or
- (b) has a parent by virtue of section 43 of that Act and is a person to whom Article 155(3) applies,

the child's mother and the other parent shall each have parental responsibility for the child.”

(3) After paragraph (2) insert—

“(2A) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom Article 155(3) applies—

- (a) the mother shall have parental responsibility for the child;
- (b) the other parent shall have parental responsibility for the child if she has acquired it (and has not ceased to have it) in accordance with the provisions of this Order.”

Commencement Information

I53 Sch. 6 para. 71 wholly in force at 1.9.2009; Sch. 6 para. 71 not in force at Royal Assent see s. 68; Sch. 6 para. 71 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 72 (1) Article 7 of the Children (Northern Ireland) Order 1995 (acquisition of parental responsibility) is amended as follows.

(2) In paragraph (1)(b), omit “(a “parental responsibility agreement”)”.

(3) After paragraph (1) insert—

“(1ZA) Where a child has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and is not a person to whom Article 155(3) applies, that parent shall acquire parental responsibility for the child if—

- (a) she becomes registered as a parent of the child;
- (b) she and the child's mother make an agreement providing for her to have parental responsibility for the child; or

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

- (c) the court, on her application, orders that she shall have parental responsibility for the child.
- (1ZB) An agreement under paragraph (1)(b) or (1ZA)(b) is known as a “parental responsibility agreement”.
- (4) After paragraph (2) insert—
- “(2A) In paragraph (1)(a) “registered” means registered under—
 - (a) Article 14(3)(a), (b) or (c) of the Births and Deaths Registration (Northern Ireland) Order 1976;
 - (b) paragraph (a), (b) or (c) of section 10(1) or 10A(1) of the Births and Deaths Registration Act 1953; or
 - (c) paragraph (a), (b)(i) or (c) of section 18(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.
 - (2B) In paragraph (1ZA)(a) “registered” means registered under—
 - (a) Article 14ZA(3)(a), (b) or (c) of the Births and Deaths Registration (Northern Ireland) Order 1976;
 - (b) paragraph (a), (b) or (c) of section 10(1B) and of section 10A(1B) of the Births and Deaths Registration Act 1953; or
 - (c) paragraph (a), (b) or (d) of section 18B(1) of, or sections 18B(3)(a) and 20(1)(a) of, the Registration of Births, Deaths and Marriages (Scotland) Act 1965.”
- (5) In paragraph (3), omit the words from “and “registered”” to the end.
- (6) In paragraph (3A), after “paragraph (1)” insert “ , (1ZA) ”.
- (7) In paragraph (4)—
- (a) for “the father” substitute “ a parent ”, and
 - (b) after “paragraph (1)(c)” insert “ or (1ZA)(c) ”.

Commencement Information

I54 Sch. 6 para. 72 wholly in force at 1.9.2009; Sch. 6 para. 72 not in force at Royal Assent see s. 68; Sch. 6 para. 72 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 73 In Article 8 of the Children (Northern Ireland) Order 1995 (residence, contact and other orders with respect to children), in paragraph (4), for sub-paragraph (g) substitute—
- “(g) section 54 of the Human Fertilisation and Embryology Act 2008;”.
- 74 (1) Article 12 of the Children (Northern Ireland) Order 1995 (residence orders and parental responsibility) is amended as follows.
- (2) After paragraph (1) insert—
- “(1A) Where the court makes a residence order in favour of a person who is a parent of a child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 it shall, if that person would not otherwise have parental responsibility for the child, also make an order under Article 7(1ZA) giving her that responsibility.”

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

- (3) In paragraph (4)—
- (a) after “(1)” insert “ or (1A) ”, and
 - (b) for “father” substitute “ parent ”.

Commencement Information

I55 Sch. 6 para. 74 wholly in force at 1.9.2009; Sch. 6 para. 74 not in force at Royal Assent see s. 68; Sch. 6 para. 74 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

75 (1) Article 155 of the Children (Northern Ireland) Order 1995 (parents not being married to each other to have no effect in law on relationships) is amended as follows.

(2) In paragraph (3), after sub-paragraph (b) insert—

- “(ba) has a parent by virtue of section 42 of the Human Fertilisation and Embryology Act 2008 (which relates to treatment provided to a woman who is at the time of treatment a party to a civil partnership or, in certain circumstances, a void civil partnership);
- (bb) has a parent by virtue of section 43 of that Act (which relates to treatment provided to woman who agrees that second woman to be parent) who—
- (i) is the civil partner of the child's mother at the time of the child's birth, or
 - (ii) was the civil partner of the child's mother at any time during the period beginning with the time mentioned in section 43(b) of that Act and ending with the child's birth;”.

(3) After paragraph (4) insert—

- “(4A) A child whose parents are parties to a void civil partnership shall, subject to paragraph (4B), be treated as falling within paragraph (3)(bb) if at the time when the parties registered as civil partners of each other both or either of the parties reasonably believed that the civil partnership was valid.
- (4B) Paragraph (4A) applies only where the woman who is a parent by virtue of section 43 was domiciled in Northern Ireland at the time of the birth or, if she died before the birth, was so domiciled immediately before her death.
- (4C) Paragraph (4A) applies even though the belief that the civil partnership was valid was due to a mistake as to law.
- (4D) It shall be presumed for the purposes of paragraph (4A), unless the contrary is shown, that one of the parties to a void civil partnership reasonably believed at the time of the formation of the civil partnership that the civil partnership was valid.”

Commencement Information

I56 Sch. 6 para. 75 wholly in force at 1.9.2009; Sch. 6 para. 75 not in force at Royal Assent see s. 68; Sch. 6 para. 75 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) View outstanding changes

- 76 In Article 179 of the Children (Northern Ireland) Order 1995 (effect and duration of orders etc), in paragraph (7), after “7(1)” insert “, (1ZA) ”.

Commencement Information

I57 Sch. 6 para. 76 wholly in force at 1.9.2009; Sch. 6 para. 76 not in force at Royal Assent see s. 68; Sch. 6 para. 76 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 77 (1) Schedule 1 to the Children (Northern Ireland) Order 1995 (financial provision for children) is amended as follows.

- (2) At the end of paragraph 5 insert—

“(5) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, any reference in sub-paragraph (2), (3) or (4) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.”

- (3) At the end of paragraph 12 insert—

“(8) In the case of a child who has a parent by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, the reference in sub-paragraph (1)(a) to the child's father is a reference to the woman who is a parent of the child by virtue of that section.”

Commencement Information

I58 Sch. 6 para. 77 wholly in force at 1.9.2009; Sch. 6 para. 77 not in force at Royal Assent see s. 68; Sch. 6 para. 77 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

- 78 (1) Paragraph 1 of Schedule 6 to the Children (Northern Ireland) Order 1995 (succession on intestacy where parents not married to each other) is amended as follows.

- (2) At the end of sub-paragraph (2) insert—

“(2A) In the case of a person who has a parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent), the second and third references in paragraph (2) to the person's father are to be read as references to the woman who is a parent of the person by virtue of that section.”

- (3) In sub-paragraph (3) for “section 19(1) of that Act” substitute “ section 19(1) of the Administration of Estates Act (Northern Ireland) 1955 ”.

Commencement Information

I59 Sch. 6 para. 78 wholly in force at 1.9.2009; Sch. 6 para. 78 not in force at Royal Assent see s. 68; Sch. 6 para. 78 in force for certain purposes at 6.4.2009 and at 1.9.2009 otherwise by S.I. 2009/479, art. 6(1)(e){(2)} (with Sch.)

Changes to legislation: Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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) [View outstanding changes](#)

*Family Homes and Domestic Violence (Northern
Ireland) Order 1998 (S.I. 1998/1071 (N.I. 6))*

- 79 In Article 2 of the Family Homes and Domestic Violence (Northern Ireland) Order 1998 (interpretation), in paragraph (3), for sub-paragraph (f) substitute—
“(f) section 54 of the Human Fertilisation and Embryology Act 2008;”.

Changes to legislation:

Human Fertilisation and Embryology Act 2008, SCHEDULE 6 is up to date with all changes known to be in force on or before 13 April 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.

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Changes and effects yet to be applied to :

- Sch. 6 para. 68 repealed by [2022 c. 18 \(N.I.\) Sch. 5](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 55(3)(e) and word inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 75\(b\)](#)