

Changes to legislation: Human Fertilisation and Embryology Act 2008, Part 1 is up to date with all changes known to be in force on or before 09 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

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

- 11** 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

- 12** 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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- 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, Part 1 is up to date with all changes known to be in force on or before 09 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, Part 1 is up to date with all changes known to be in force on or before 09 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, Part 1 is up to date with all changes known to be in force on or before 09 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.”

Changes to legislation:

Human Fertilisation and Embryology Act 2008, Part 1 is up to date with all changes known to be in force on or before 09 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 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\(b\)](#)