



# Human Fertilisation and Embryology Act 2008

## CHAPTER 22

### HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

#### PART 1

##### AMENDMENTS OF THE HUMAN FERTILISATION AND EMBRYOLOGY ACT 1990

###### *Principal terms used in the 1990 Act*

- 1 Meaning of “embryo” and “gamete”
- 2 Meaning of “nuclear DNA”

###### *Activities governed by the 1990 Act*

- 3 Prohibitions in connection with embryos
- 4 Prohibitions in connection with genetic material not of human origin

###### *The Human Fertilisation and Embryology Authority*

- 5 Membership of Authority: disqualification and tenure
- 6 Additional general functions of Authority
- 7 Duties in relation to carrying out its functions
- 8 Power to contract out functions etc.
- 9 Power to assist other public authorities
- 10 Power to delegate and establish committees

###### *Scope of licences*

- 11 Activities that may be licensed

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### *Licence conditions*

- 12 General conditions of licences
- 13 Consent to use or storage of gametes, embryos, human admixed embryos etc.
- 14 Conditions of licences for treatment
- 15 Conditions of storage licences

### *Grant, revocation and suspension of licences*

- 16 Grant of licence
- 17 The person responsible
- 18 Revocation and variation of licence
- 19 Procedure for refusal, variation or revocation of licence
- 20 Power to suspend licence
- 21 Reconsideration and appeals

### *Directions and guidance*

- 22 Directions
- 23 Code of practice

### *Information*

- 24 Register of information
- 25 Restrictions on disclosure of information

### *Mitochondrial donation*

- 26 Mitochondrial donation

### *Miscellaneous*

- 27 Fees
- 28 Inspection, entry, search and seizure
- 29 Offences under the 1990 Act
- 30 Regulations under the 1990 Act
- 31 Power to make consequential provision
- 32 Orders under the 1990 Act

## **PART 2**

### **PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION**

#### *Meaning of “mother”*

- 33 Meaning of “mother”

#### *Application of sections 35 to 47*

- 34 Application of sections 35 to 47

#### *Meaning of “father”*

- 35 Woman married to , or civil partner of, a man at time of treatment
- 36 Treatment provided to woman where agreed fatherhood conditions apply
- 37 The agreed fatherhood conditions

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- 38 Further provision relating to sections 35 and 36
- 39 Use of sperm, or transfer of embryo, after death of man providing sperm
- 40 Embryo transferred after death of male spouse, civil partner or intended parent who did not provide sperm
- 41 Persons not to be treated as father

*Cases in which woman to be other parent*

- 42 Woman in civil partnership or marriage to a woman at time of treatment
- 43 Treatment provided to woman who agrees that second woman to be parent
- 44 The agreed female parenthood conditions
- 45 Further provision relating to sections 42 and 43
- 46 Embryo transferred after death of female spouse, civil partner or intended parent
- 47 Woman not to be other parent merely because of egg donation

*Effect of sections 33 to 47*

- 48 Effect of sections 33 to 47

*References to parties to marriage or civil partnership*

- 49 Meaning of references to parties to a marriage
- 50 Meaning of references to parties to a civil partnership

*Further provision about registration by virtue of section 39, 40 or 46*

- 51 Meaning of “relevant register of births”
- 52 Late election by mother with consent of Registrar General

*Interpretation of references to father etc. where woman is other parent*

- 53 Interpretation of references to father etc.

*Parental orders*

- 54 Parental orders: two applicants
- 54A Parental orders: one applicant
- 55 Parental orders: supplementary provision

*Amendments of enactments*

- 56 Amendments relating to parenthood in cases involving assisted reproduction

*General*

- 57 Repeals and transitional provision relating to Part 2
- 58 Interpretation of Part 2

**PART 3**

MISCELLANEOUS AND GENERAL

*Miscellaneous*

- 59 Surrogacy arrangements

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- 60 Exclusion of embryos from definition of “organism” in Part 6 of the EPA 1990

*General*

- 61 Orders and regulations: general provisions  
 62 Orders and regulations: parliamentary control  
 63 Meaning of “the 1990 Act”  
 64 Power to make consequential and transitional provision etc.  
 65 Minor and consequential amendments  
 66 Repeals and revocations  
 67 Extent  
 68 Commencement  
 69 Short title

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SCHEDULES

SCHEDULE 1 — Amendments to Schedule 1 to the 1990 Act relating to membership of the Authority

- 1 Schedule 1 to the 1990 Act (supplementary provision about Authority)...  
 2 After paragraph 4 (appointment of members) insert— (1) A person (“P”) is disqualified for being appointed as...  
 3 In paragraph 5— (a) after sub-paragraph (4), insert—

SCHEDULE 2 — Activities that may be licensed under the 1990 Act

*Introductory*

- 1 Schedule 2 to the 1990 Act (activities for which licences...

*Licences for treatment*

- 2 (1) Paragraph 1 (licences for treatment) is amended as follows....

*Embryo testing and sex selection*

- 3 After paragraph 1 insert— Embryo testing (1) A licence under paragraph 1 cannot authorise the testing...

*Licences for non-medical fertility services*

- 4 In paragraph 1A (licences for non-medical fertility services) after sub-paragraph...

*Licences for storage*

- 5 In paragraph 2 (licences for storage)— (a) after sub-paragraph (1)...

*Licences for research*

- 6 For paragraph 3 substitute— Licences for research (1) A licence under this paragraph may authorise any of...

SCHEDULE 3 — Consent to use or storage of gametes, embryos or human admixed embryos etc.

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### *Introductory*

- 1 Schedule 3 to the 1990 Act (giving of consent to...
- 2 In the title to that Schedule, for “OF GAMETES OR...

### *General requirements as to consent*

- 3 For paragraph 1 substitute— (1) A consent under this Schedule, and any notice under...

### *Terms of consent*

- 4 (1) Paragraph 2 (terms etc. of consent) is amended as...

### *Information to be given to a person giving consent*

- 5 In paragraph 3 (procedure for giving consent), in sub-paragraph (2),...

### *Variation and withdrawal of consent*

- 6 (1) Paragraph 4 (variation and withdrawal of consent) is amended...

### *Withdrawal of consent to storage: notification of interested persons*

- 7 After paragraph 4 insert— (1) This paragraph applies where— (a) a permitted embryo, the...

### *Application of consent provisions to non-medical fertility services*

- 8 In paragraph 5 (use of gametes for treatment of others),...

### *In vitro fertilisation and subsequent use of embryo*

- 9 (1) Paragraph 6 (in vitro fertilisation and subsequent use of...

### *Use of embryos obtained by lavage etc.*

- 10 (1) Paragraph 7 (embryos obtained by lavage etc.) is amended...

### *Consents in relation to storage*

- 11 (1) Paragraph 8 (storage of gametes and embryos) is amended...
- 12 After paragraph 8 insert— Cases where consent not required for...

### *Creation, use and storage of human admixed embryos*

- 13 After paragraph 11 (as inserted by paragraph 12 above) insert—...

### *Cases where human cells etc. can be used without consent of person providing them*

- 14 After paragraph 14 (as inserted by paragraph 13 above) insert—...

### *Interpretation*

- 15 After paragraph 21 (as inserted by paragraph 14 above) insert—...

SCHEDULE 4 — Schedule inserted in the 1990 Act as Schedule 3ZA

SCHEDULE 5 — Schedule inserted in the 1990 Act as Schedule 3B

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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...

*Births and Deaths Registration Act 1953 (c. 20)*

2 In section 1 of the Births and Deaths Registration Act...

3 In section 2 of the Births and Deaths Registration Act...

4 In section 9(4) of the Births and Deaths Registration Act...

5 (1) Section 10 of the Births and Deaths Registration Act...

6 For section 10ZA of the Births and Deaths Registration Act...

7 (1) Section 10A of the Births and Deaths Registration Act...

8 In section 13 of the Births and Deaths Registration Act...

9 (1) Section 14 of the Births and Deaths Registration Act...

10 (1) Section 29A of the Births and Deaths Registration Act...

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

11 (1) Section 3A of the Births, Deaths and Marriages (Special...

12 At the end of section 5 of the Registration of...

*Family Law Reform Act 1969 (c. 46)*

13 In section 25 of the Family Law Reform Act 1969...

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

14 In section 1 of the Congenital Disabilities (Civil Liability) Act...

15 In section 4 of the Congenital Disabilities (Civil Liability) Act...

*Legitimacy Act 1976 (c. 31)*

16 After section 2 of the Legitimacy Act 1976 (legitimation by...

17 In section 3 of the Legitimacy Act 1976 (legitimation by...

18 In section 9 of the Legitimacy Act 1976 (re-registration of...

19 In section 10 of the Legitimacy Act 1976 (interpretation), in...

*Magistrates' Courts Act 1980 (c. 43)*

20 In section 65 of the Magistrates' Courts Act 1980 (meaning...

*Supreme Court Act 1981 (c. 54)*

21 In Schedule 1 to the Supreme Court Act 1981 (distribution...

*British Nationality Act 1981 (c. 61)*

22 In section 50 of the British Nationality Act 1981 (interpretation)...

*Family Law Act 1986 (c. 55)*

23 In section 56 of the Family Law Act 1986 (declarations...

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*Family Law Reform Act 1987 (c. 42)*

- 24 (1) Section 1 of the Family Law Reform Act 1987...
- 25 (1) Section 18 of the Family Law Reform Act 1987...

*Children Act 1989 (c. 41)*

- 26 (1) Section 2 of the Children Act 1989 (parental responsibility...
- 27 After section 4 of the Children Act 1989 insert— Acquisition...
- 28 (1) Section 12 of the Children Act 1989 (residence orders...
- 29 In section 91 of the Children Act 1989 (effect and...
- 30 In section 104 of the Children Act 1989 (regulations and...
- 31 In section 105 of the Children Act 1989 (interpretation), in...
- 32 (1) Schedule 1 to the Children Act 1989 (financial provision...

*Human Fertilisation and Embryology Act 1990 (c. 37)*

- 33 (1) Section 32 of the 1990 Act (information to be...
- 34 In section 34 of the 1990 Act (disclosure in the...
- 35 (1) Section 35 of the 1990 Act (disclosure of information...

*Child Support Act 1991 (c. 48)*

- 36 In section 26 of the Child Support Act 1991 (disputes...

*Family Law Act 1996 (c. 27)*

- 37 In section 63 of the Family Law Act 1996 (definition...

*Access to Justice Act 1999 (c. 22)*

- 38 In Schedule 2 to the Access to Justice Act 1999...

*Adoption and Children Act 2002 (c. 38)*

- 39 (1) Section 51 of the Adoption and Children Act 2002...

*Mental Capacity Act 2005 (c. 9)*

- 40 In section 27 of the Mental Capacity Act 2005 (family...  
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)...

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

- 42 In section 14 of the Registration of Births, Deaths and...
- 43 For section 18ZA of the Registration of Births, Deaths and...
- 44 After section 18A of the Registration of Births, Deaths and...
- 45 In section 20 of the Registration of Births, Deaths and...

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

- 46 In section 9(1)(c)(ii) of the Family Law (Scotland) Act 1985...
- 47 In section 27(1) of the Family Law (Scotland) Act 1985...

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*Children (Scotland) Act 1995 (c. 36)*

- 48 In section 1(1) of the Children (Scotland) Act 1995 (parental...
- 49 In section 2(1) of the Children (Scotland) Act 1995 (parental...
- 50 (1) Section 3 of the Children (Scotland) Act 1995 (provisions...
- 51 After section 4 of the Children (Scotland) Act 1995 insert—...
- 52 (1) Section 11 of the Children (Scotland) Act 1995 (court...
- 53 In section 12(4)(b) of the Children (Scotland) Act 1995 (meaning...
- 54 In section 15(1) of the Children (Scotland) Act 1995 (interpretation...

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

- 55 In section 1(1) of the Criminal Law (Consolidation) (Scotland) Act...

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

- 56 (1) Section 30 of the Adoption and Children (Scotland) Act...  
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...
- 58 (1) Section 8 of the Legitimacy Act (Northern Ireland) 1928...
- 59 In section 11 of the Legitimacy Act (Northern Ireland) 1928...

*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...
- 61 After Article 14 of the Births and Deaths Registration (Northern...
- 62 For Article 14A of the Births and Deaths Registration (Northern...
- 63 (1) Article 18 of the Births and Deaths Registration (Northern...
- 64 (1) Article 19 of the Births and Deaths Registration (Northern...
- 65 In Article 20 of the Births and Deaths Registration (Northern...
- 66 In Article 37 of the Births and Deaths Registration (Northern...

*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)...

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

- 68 (1) Article 15 of the Adoption (Northern Ireland) Order 1987...

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

- 69 In Article 27 of the Child Support (Northern Ireland) Order...

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

- 70 In Article 2 of the Children (Northern Ireland) Order 1995,...
- 71 (1) Article 5 of the Children (Northern Ireland) Order 1995...
- 72 (1) Article 7 of the Children (Northern Ireland) Order 1995...
- 73 In Article 8 of the Children (Northern Ireland) Order 1995...
- 74 (1) Article 12 of the Children (Northern Ireland) Order 1995...
- 75 (1) Article 155 of the Children (Northern Ireland) Order 1995...
- 76 In Article 179 of the Children (Northern Ireland) Order 1995...
- 77 (1) Schedule 1 to the Children (Northern Ireland) Order 1995...



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78 (1) Paragraph 1 of Schedule 6 to the Children (Northern...

*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...

SCHEDULE 7 — Minor and consequential amendments

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

1 In section 4 of the Congenital Disabilities (Civil Liability) Act...

*Human Fertilisation and Embryology Act 1990 (c. 37)*

2 In section 2 of the 1990 Act (other terms)—

3 In section 7 of the 1990 Act (reports to Secretary...

4 Omit section 10 of the 1990 Act (licensing procedure).

5 In section 13A of the 1990 Act (conditions of licences...

6 In section 14A of the 1990 Act (conditions of licences:...

7 In section 15 of the 1990 Act (conditions of research...

8 Omit section 22 of the 1990 Act (temporary suspension of...

9 In section 23 of the 1990 Act (directions: general)—

10 (1) Section 31A of the 1990 Act (the Authority's register...

11 In section 32 of the 1990 Act (information to be...

12 In section 34 of the 1990 Act (disclosure in the...

13 In section 47 of the 1990 Act (index)—

14 In section 48 of the 1990 Act (application to Northern...

15 In Schedule 1 to the 1990 Act (the Authority: supplementary...

*Age of Legal Capacity (Scotland) Act 1991 (c. 50)*

16 In section 2 of the Age of Legal Capacity (Scotland)...

*Children (Scotland) Act 1995 (c. 36)*

17 In section 15 of the Children (Scotland) Act 1995 (interpretation...

*Adults with Incapacity (Scotland) Act 2000 (asp 4)*

18 After section 84 of the Adults with Incapacity (Scotland) Act...

*Criminal Justice and Police Act 2001 (c. 16)*

19 In section 57 of the Criminal Justice and Police Act...

20 In section 66 of the Criminal Justice and Police Act...

21 In Schedule 1 to the Criminal Justice and Police Act...

*Human Tissue Act 2004 (c. 30)*

22 In section 1 of the Human Tissue Act 2004 (authorisation...

23 In section 14 of the Human Tissue Act 2004 (remit...

24 In section 54 of the Human Tissue Act 2004 (general...

*Mental Capacity Act 2005 (c. 9)*

25 In section 30 of the Mental Capacity Act 2005 (research),...

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SCHEDULE 8 — Repeals and revocations

Part 1 — REPEALS

Part 2 — REVOCATIONS

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**Changes and effects yet to be applied to :**

- s. 55(3)(c) word repealed by [2022 c. 18 \(N.I.\) Sch. 3 para. 75\(a\)](#)[Sch. 5](#)
- 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\(b\)](#)