

Changes to legislation: Human Fertilisation and Embryology Act 2008, Cross Heading: Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49) is up to date with all changes known to be in force on or before 12 May 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 2

ENACTMENTS RELATING ONLY TO SCOTLAND

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

II 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—

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- (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

I2 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—

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- (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.
- (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

I3 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) ”,

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- (ii) after “paternity” insert “ or parentage ”, and
- (iii) after “18” insert “ or 18B ”.

Commencement Information

- I4** 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)

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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\(b\)](#)