

2009 No. 2232 (C. 97)

HUMAN FERTILISATION AND EMBRYOLOGY

**The Human Fertilisation and Embryology Act 2008
(Commencement No.2 and Transitional Provision) and
(Commencement No.1 Amendment) Order 2009**

Made - - - - *18th August 2009*

Coming into force

for the purposes of articles 1 to 3 *1st September 2009*

for the purpose of article 4 *1st October 2009*

The Secretary of State, in exercise of the powers conferred by sections 61 and 68 of the Human Fertilisation and Embryology Act 2008(a) makes the following Order:

Citation, coming into force and interpretation

1.—(1) This Order may be cited as the Human Fertilisation and Embryology Act 2008 (Commencement No.2 and Transitional Provision) and (Commencement No.1 Amendment) Order 2009 and shall come into force in accordance with paragraph (2).

(2) This article, and articles 2 and 3 shall come into force on 1st September 2009, and article 4 shall come into force on 1st October 2009.

(3) In this Order—

“the Act” means the Human Fertilisation and Embryology Act 2008;

“the 1990 Act” means the Human Fertilisation and Embryology Act 1990(b); and

“the 2009 Order” means the Human Fertilisation and Embryology Act 2008 (Commencement No.1 and Transitional Provisions) Order 2009(c).

Appointed day

2. 1st October 2009 is the day appointed for the coming into force of the following provisions of the Act—

- (a) sections 1 to 7;
- (b) section 8 (power to contract out functions etc.) in so far as not already in force;
- (c) sections 9 to 13;
- (d) section 14 (conditions of licences for treatment) in so far as not already in force;
- (e) section 15 (conditions of storage licences) in so far as not already in force;

(a) 2008 c. 22.
(b) 1990 c. 37.
(c) S.I. 2009/479.

- (f) sections 16 to 18;
- (g) section 19 (procedure for refusal, variation or revocation of licence) in so far as not already in force;
- (h) section 20 (power to suspend licence);
- (i) section 21 (reconsideration and appeals) in so far as not already in force;
- (j) sections 22 and 23;
- (k) section 24 (register of information) in so far as not already in force;
- (l) section 25 (restrictions on disclosure of information) in so far as not already in force, except in relation to new section 33A(2)(q) of the 1990 Act (disclosure of information);
- (m) section 26 (mitochondrial donation) except in relation to new section 35A(2)(b) of the 1990 Act (mitochondrial donation);
- (n) sections 27 to 29;
- (o) section 31 (power to make consequential provision);
- (p) section 32 (orders under the 1990 Act);
- (q) section 55 (parental orders: supplementary provision) and section 54 (parental orders) for the purpose of making regulations under section 55;
- (r) section 59 (surrogacy arrangements);
- (s) section 60 (exclusion of embryos from definition of “organism” in Part 6 of the EPA 1990);
- (t) section 65 (minor and consequential amendments) in so far as not already in force;
- (u) Schedule 1 (amendments to Schedule 1 to the 1990 Act relating to membership of the Authority);
- (v) Schedule 2 (activities that may be licensed under the 1990 Act);
- (w) Schedule 3 (consent to use or storage of gametes, embryos or human admixed embryos etc.);
- (x) Schedule 5 (Schedule inserted in the 1990 Act as Schedule 3B);
- (y) Schedule 7 (minor and consequential amendments) in so far as not already in force; and
- (z) Schedule 8 (repeals and revocations) except for the repeal of section 30 of the 1990 Act (parental orders in favour of gamete donors) and, in relation to those repeals, section 66 (repeals and revocations), in so far as not already in force.

Amendment to the 2009 Order

3. In article 6(2) of the 2009 Order for “41 to 56” substitute “41 to 51, 52(1) and (3), 53, 54(a), 55, 56”.

Transitional provision: restrictions on disclosure of information

4. Section 33A(1) of the 1990 Act (disclosure of information) shall not apply where disclosure is made for the purpose of establishing, in any proceedings relating to an application for an order under subsection (1) of section 30 of the 1990 Act (parental orders in favour of gamete donors), whether the condition specified in paragraph (a) or (b) of that subsection is met.

Signed by authority of the Secretary of State for Health.

18th August 2009

Gillian Merron
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on the 1st October 2009 the majority of provisions of the Human Fertilisation and Embryology Act 2008 (“the 2008 Act”) so far as they are either not already in force, or will be brought into force, by virtue of the Human Fertilisation and Embryology Act 2008 (Commencement No. 1 and Transitional Provisions) Order 2009 (“the 2009 Order”). The majority of the provisions in the 2008 Act amend the Human Fertilisation and Embryology Act 1990 (“the 1990 Act”).

The provisions brought into force by this Order include those setting out the new definitions of “embryo” and “gametes” and widening the scope of the 1990 Act to regulate human admixed embryos. These provisions also extend the activities that may be included in licences granted by the Human Fertilisation and Embryology Authority (“the HFEA”) and amend the conditions attached to licences including, for example, the consent provisions relating to the use of gametes and embryos.

Provisions revising the powers and structure of the HFEA are also brought into force including the process for licence applications and appeals. New provision is made in relation to the register of information held by the HFEA and disclosure of such information. Provisions relating to the HFEA’s power to give directions and publish a Code of Practice are also brought into force along with amendments to the Surrogacy Arrangements Act 1985. Other amendments and repeals related to provisions brought into force by this Order are also commenced.

This Order does not bring into force section 54 of the 2008 Act, which makes new provision for parental orders, or any other provisions in the 2008 Act that refer to this provision, except for section 55 which is brought into force to enable regulations to be made in relation to parental orders.

The Order makes transitional provision relating to the disclosure of information by the HFEA in relation to parental orders under section 30 of the 1990 Act.

This Order also amends the 2009 Order to ensure that amendments to the Children (Scotland) Act 1995, to take account of new section 54 of the 2008 Act, do not come into force until section 54 is commenced.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Human Fertilisation and Embryology Act 2008 have been brought into force, or will come into force after the date of this Order, by a commencement order made before the date of this Order:

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
Section 8 (partially)	06.04.2009	2009/479
Section 14 (partially)	06.04.2009	2009/479
Section 15 (partially)	06.04.2009	2009/479
Section 19 (partially)	06.04.2009	2009/479
Section 21 (partially)	06.04.2009	2009/479
Section 24 (partially)	06.04.2009	2009/479
Section 25 (partially)	06.04.2009	2009/479
Section 30	06.04.2009	2009/479
Section 33 to 53	06.04.2009	2009/479
Section 56 (partially)	06.04.2009	2009/479
Section 56 (fully)	To come into force on	2009/479

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
	01.09.2009	
Section 57 (partially)	06.04.2009	2009/479
Section 58	06.04.2009	2009/479
Section 65 (partially)	06.04.2009	2009/479
Section 66 (partially)	06.04.2009	2009/479
Section 66 (partially)	To come into force on 01.09.2009	2009/479
Schedule 4	06.04.2009	2009/479
Schedule 6 (partially)	06.04.2009	2009/479
Schedule 6 (partially)	To come into force on 01.09.2009	2009/479
Schedule 7 (partially)	06.04.2009	2009/479
Schedule 8 (partially)	06.04.2009	2009/479
Schedule 8 (partially)	To come into force on 01.09.2009	2009/479

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