

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for two exceptions to the general rule that any person keeping or using human embryos, or storing human gametes, may do so only in accordance with a licence from the Human Fertilisation and Embryology Authority (“the Authority”).

The first exception, in regulation 2, applies to the keeping or examination of embryos, or the storing of gametes, in connection with the investigation of, or proceedings for, an offence under the Human Fertilisation and Embryology Act 1990. The exception provides that a person may keep or examine embryos, or store gametes, for that purpose without a licence from the Authority. Any such embryos or gametes will have been seized by the Authority or transferred to the place where they now are on the instructions of the Authority. They must if possible be kept in such a way that their condition does not deteriorate and must be distinctively labelled.

The second exception, in regulation 3, applies to the storing of gametes for the purpose of research on gametes, developing or testing pharmaceutical or contraceptive products, or teaching, provided they are not to be used for treatment services or in any mixing of eggs and sperm or for any other purpose specified in regulation 3(3). The exception provides that a person may store gametes for these purposes if that person complies with the conditions set out in regulation 3(6), (7) and (8). No money or other benefit may be given or received for such gametes unless this was permitted (in the case of gametes stored under a licence) by directions given by the Authority (regulation 3(4)).

Regulation 4 revokes the Human Fertilisation and Embryology (Special Exemption) Regulations 1991. The new Regulations largely replicate the 1991 Regulations except in two respects. First, they take account of the new definitions of embryo and gametes as substituted by the Human Fertilisation and Embryology Act 2008. Secondly, the new Regulations make minor drafting changes to the 1991 Regulations.