
DRAFT STATUTORY INSTRUMENTS

2018 No.

**The Human Fertilisation and Embryology
Act 2008 (Remedial) Order 2018**

Amendments to the Human Fertilisation and Embryology Act 2008

- 2.—(1) The Human Fertilisation and Embryology Act 2008 is amended as follows.
- (2) In the heading of section 54 (parental orders) at the end insert “: two applicants”.
- (3) In subsection (1)(c) of that section, for “(8)” substitute “(8A)”.
- (4) In that section after subsection (8) insert—
- “(8A) An order relating to the child must not previously have been made under this section or section 54A, unless the order has been quashed or an appeal against the order has been allowed.”.
- (5) After section 54 insert—

“54A Parental orders: one applicant

- (1) On an application made by one person (“the applicant”), the court may make an order providing for a child to be treated in law as the child of the applicant if—
- (a) the child has been carried by a woman who is not the applicant, as a result of the placing in her of an embryo or sperm and eggs or her artificial insemination,
- (b) the gametes of the applicant were used to bring about the creation of the embryo, and
- (c) the conditions in subsections (2) to (8) are satisfied.
- (2) Except in a case falling within subsection (1), the applicant must apply for the order within the period of 6 months beginning with the day on which the child is born.
- (3) At the time of the application and the making of the order—
- (a) the child’s home must be with the applicant, and
- (b) the applicant must be domiciled in the United Kingdom or in the Channel Islands or the Isle of Man.
- (4) At the time of the making of the order the applicant must have attained the age of 18.
- (5) The court must be satisfied that both—
- (a) the woman who carried the child, and
- (b) any other person who is a parent of the child but is not the applicant (including any man who is the father by virtue of section 35 or 36 or any woman who is a parent by virtue of section 42 or 43),

have freely, and with full understanding of what is involved, agreed unconditionally to the making of the order.

- (6) Subsection (5) does not require the agreement of a person who cannot be found or is incapable of giving agreement; and the agreement of the woman who carried the child is

ineffective for the purpose of that subsection if given by her less than six weeks after the child's birth.

(7) The court must be satisfied that no money or other benefit (other than for expenses reasonably incurred) has been given or received by the applicant for or in consideration of—

- (a) the making of the order,
- (b) any agreement required by subsection (5),
- (c) the handing over of the child to the applicant, or
- (d) the making of arrangements with a view to the making of the order,

unless authorised by the court.

(8) An order relating to the child must not previously have been made under section 54 or this section, unless the order has been quashed or an appeal against the order has been allowed.

(9) Section 54(9) applies for the purposes of an application under this section.

(10) Subsection (1)(a) applies whether the woman was in the United Kingdom or elsewhere at the time of the placing in her of the embryo or the sperm and eggs or her artificial insemination.

(11) An application which relates to a child born before the coming into force of this section may be made within the period of six months beginning with the day on which this section comes into force.”.

(6) In section 55(1)(a) and (b) (parental orders: supplementary provision) after “section 54” insert “or 54A”.