

*These notes refer to the Human Fertilisation and Embryology Act 2008 (c.22)*

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## **EXPLANATORY NOTES**

### **HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008**

#### **INTRODUCTION**

#### **LIST OF ABBREVIATIONS USED IN THE EXPLANATORY NOTES**

#### **BACKGROUND**

##### **Review of the 1990 Act**

#### **OVERVIEW**

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##### **PART 2**

##### **PART 3**

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#### **COMMENTARY ON SECTIONS**

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Section 1: Meaning of “embryo” and “gamete”

Section 2: Meaning of “nuclear DNA”

Section 3: Prohibitions in connection with embryos

Section 4: Prohibitions in connection with genetic material not of human origin

Section 5: Membership of the Authority: disqualification and tenure

Section 6: Additional general functions of the Authority

Section 7: Duties in relation to carrying out its functions

Section 8: Power to contract out functions etc.

Section 9: Power to assist other public authorities

Section 10: Power to delegate and establish committees

Section 11: Activities that may be licensed

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**Tissue typing**

**Testing in the event of uncertainty**

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**Purposes for which embryo research may be undertaken**

**Genetic modification of cells**

**Human admixed embryos**

**Licences for storage (of human admixed embryos)**

Section 12: General conditions of licences

Section 13: Consent to use or storage of gametes, embryos and human admixed embryos etc.

**Formalities of consent**

**Physical incapacity**

**Purpose of consent**

**Variation and withdrawal of consent**

**Non-medical fertility services**

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**Cases where consent not required for storage**

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**Welfare of the child where basic partner treatment services are provided**

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Section 15: Conditions of storage licences

Section 16: Grant of licence

Section 17: The person responsible

Section 18: Revocation and variation of licence

Section 19: Procedure for refusal, variation or revocation of licence

Section 20: Power to suspend licence

Section 21: Reconsideration and appeals

Section 22: Directions

Section 23: Code of Practice

Section 24: Register of information

Section 25: Restrictions on disclosure of information

Section 26: Mitochondrial donation

Section 27: Fees

Section 28: Inspection, entry, search and seizure

Section 29: Offences under 1990 Act

Section 31: Power to make consequential provision

Section 32: Orders under the 1990 Act

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Section 33: Meaning of “mother”

Section 35: Woman married at time of treatment

Sections 36 and 37: Fatherhood conditions

Section 38: Further provisions relating to sections 35 and 36

Section 39: Use of sperm, or transfer of embryo, after death of man providing sperm

Section 40: Embryo transferred after death of husband etc. who did not provide sperm

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Section 41: Persons not to be treated as father

Section 42: Women in civil partnership at time of treatment

Sections 43 and 44: Female parenthood conditions

Section 45: Further provision relating to sections 42 and 43

Section 46: Embryo transferred after death of civil partner or intended female parent

Section 47: Woman not to be other parent merely because of egg donation

Section 48: Effect of sections 33 to 47

Section 52: Late election by mother with consent of Registrar General

Section 53: Interpretation of references to father etc.

Section 54: Parental orders

Section 56: Amendments relating to parenthood in cases involving assisted reproduction

**Amendments in Part 1 of Schedule 6**

**Population (Statistics) Act 1938**

**Births and Deaths Registration Act 1953**

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

**Family Law Reform Act 1969**

**Congenital Disabilities (Civil Liability) Act 1976**

**Legitimacy Act 1976**

**Magistrates' Courts Act 1980**

**Supreme Court Act 1981**

**British Nationality Act 1981**

**Family Law Act 1986**

**Family Law Reform Act 1987**

**Children Act 1989**

**Human Fertilisation and Embryology Act 1990**

**Child Support Act 1991**

**Family Law Act 1996**

**Access to Justice Act 1999**

**Adoption and Children Act 2002**

**Mental Capacity Act 2005**

**Amendments in Part 2 of Schedule 6**

**Children and Young Persons (Scotland) Act 1937**

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

**Family Law (Scotland) Act 1985**

**Children (Scotland) Act 1995**

**Criminal Law (Consolidation) (Scotland) Act 1995**

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

**Amendments in Part 3 of Schedule 6**

**Legitimacy Act (Northern Ireland) 1928**

**Births and Deaths Registration (Northern Ireland) Order 1976**

**Family Law Reform (Northern Ireland) Order 1977**

**Adoption (Northern Ireland) Order 1987**

**Child Support (Northern Ireland) Order 1991**

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Section 59: Surrogacy arrangements

Section 60: Exclusion of embryos from definition of organism in Part 6 of the EPA 1990

## **COMMENCEMENT**