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Human Fertilisation and Embryology Act 2008

2008 CHAPTER 22

PART 1

AMENDMENTS OF THE HUMAN FERTILISATION AND EMBRYOLOGY ACT 1990

The Human Fertilisation and Embryology Authority

VALID FROM 01/10/2009

5 Membership of Authority: disqualification and tenure

Schedule 1 contains amendments of Schedule 1 to the 1990 Act (which are about disqualification for appointment to membership of the Authority and the tenure of office of members).

VALID FROM 01/10/2009

6 Additional general functions of Authority

- (1) In section 8 of the 1990 Act (general functions of the Authority), renumber the existing provision as subsection (1) of that section.
- (2) In that subsection—
 - (a) omit the word “and” immediately after paragraph (c), and
 - (b) after that paragraph insert—
 - “(ca) maintain a statement of the general principles which it considers should be followed—

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- (i) in the carrying-on of activities governed by this Act, and
 - (ii) in the carrying-out of its functions in relation to such activities,
 - (cb) promote, in relation to activities governed by this Act, compliance with—
 - (i) requirements imposed by or under this Act, and
 - (ii) the code of practice under section 25 of this Act, and”.
- (3) After that subsection, insert—
- “(2) The Authority may, if it thinks fit, charge a fee for any advice provided under subsection (1)(c).”

VALID FROM 01/10/2009

7 Duties in relation to carrying out its functions

After section 8 (general functions of the Authority) insert—

“8ZA Duties in relation to carrying out its functions

- (1) The Authority must carry out its functions effectively, efficiently and economically.
- (2) In carrying out its functions, the Authority must, so far as relevant, have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed).”

8 Power to contract out functions etc.

After section 8A of the 1990 Act (duty of Authority to communicate with competent authorities of other EEA states) insert—

“8B Agency arrangements and provision of services

- (1) Arrangements may be made between the Authority and a government department, a public authority or the holder of a public office (“the other authority”) for—
 - (a) any functions of the Authority to be exercised by, or by members of the staff of, the other authority, or
 - (b) the provision by the other authority of administrative, professional or technical services to the Authority.
- (2) Arrangements under subsection (1)(a) do not affect responsibility for the carrying-out of the Authority's functions.

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- (3) Subsection (1)(a) does not apply to any function of making subordinate legislation (within the meaning of the Interpretation Act 1978).

8C Contracting out functions of Authority

- (1) This section applies to any function of the Authority other than—
- (a) any function which, by virtue of any enactment, may be exercised only by members of the Authority,
 - (b) a function excluded from this section by subsection (2), or
 - (c) a function excluded from this section by the Secretary of State by order.
- (2) A function is excluded from this section if—
- (a) it relates to the grant, revocation or variation of any licence,
 - (b) it is a power or right of entry, search or seizure into or of any property, or
 - (c) it is a function of making subordinate legislation (within the meaning of the Interpretation Act 1978).
- (3) The Authority may make arrangements with any person (“the authorised person”) for the exercise by that person, or by the employees of that person, of any function of the Authority to which this section applies.
- (4) Any arrangements made by the Authority under this section—
- (a) may be revoked at any time by the Authority, and
 - (b) do not prevent the Authority from exercising any function to which the arrangements relate.
- (5) Subject to subsection (6), anything done or omitted to be done by or in relation to the authorised person (or an employee of the authorised person) in, or in connection with, the exercise or purported exercise of any function to which the arrangements relate is to be treated for all purposes as done or omitted to be done by or in relation to the Authority.
- (6) Subsection (5) does not apply—
- (a) for the purposes of so much of any contract between the authorised person and the Authority as relates to the exercise of the function, or
 - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person (or any employee of the authorised person).
- (7) Section 38A(2) of this Act (which relates to the keeping of embryos, human admixed embryos and gametes) applies in relation to the authorised person or any employee of the authorised person, when exercising functions of the Authority, as it applies in relation to any member or employee of the Authority exercising functions as member or employee.

8D Disclosure of information where functions of Authority exercised by others

- (1) This section applies to—
- (a) the Authority,

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- (b) any public authority or other person exercising functions of the Authority by virtue of section 8B,
- (c) any member of staff of any person falling within paragraph (b),
- (d) any person exercising functions of the Authority by virtue of section 8C,
- (e) an employee of any person falling within paragraph (d), or
- (f) any person engaged by the Authority to provide services to the Authority.

(2) No obligation of confidence is to prevent the disclosure of information by a person to whom this section applies to another such person if the disclosure is necessary or expedient for the purposes of the exercise of any function of the Authority.”

Commencement Information

- II** S. 8 wholly in force at 1.10.2009; s. 8 not in force at Royal Assent see s. 68; s. 8 in force for certain purposes at 6.4.2009 by S.I. 2009/479, art. 2 (with Sch.); s. 8 in force at 1.10.2009 otherwise by S.I. 2009/2232, art. 2(b)

VALID FROM 01/10/2009

9 Power to assist other public authorities

After section 8D (inserted by section 8 above) insert—

“8E Power to assist other public authorities

- (1) The Authority may if it thinks it appropriate to do so provide assistance to any other public authority in the United Kingdom for the purpose of the exercise by that authority of its functions.
- (2) Assistance provided by the Authority under this section may be provided on such terms, including terms as to payment, as it thinks fit.”

VALID FROM 01/10/2009

10 Power to delegate and establish committees

For section 9 (licence committees and other committees) of the 1990 Act substitute—

“9A Power to delegate and establish committees

- (1) The Authority may delegate a function to a committee, to a member or to staff.

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- (2) The Authority may establish such committees or sub-committees as it thinks fit (whether to advise the Authority or to exercise a function delegated to it by the Authority).
- (3) Subject to any provision made by regulations under section 20A (appeals committees), the members of the committees or sub-committees may include persons who are not members of the Authority.
- (4) Subsection (1) has effect subject to any enactment requiring a decision to be taken by members of the Authority or by a committee consisting of members of the Authority.”

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