

Status: Point in time view as at 01/10/2009.

Changes to legislation: Human Fertilisation and Embryology Act 2008, Cross Heading: Terms of consent is up to date with all changes known to be in force on or before 28 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 3

CONSENT TO USE OR STORAGE OF GAMETES, EMBRYOS OR HUMAN ADMIXED EMBRYOS ETC.

Terms of consent

- 4 (1) Paragraph 2 (terms etc. of consent) is amended as follows.
- (2) In sub-paragraph (1), for the “or” at the end of paragraph (b) substitute—
- “(ba) use for the purpose of training persons in embryo biopsy, embryo storage or other embryological techniques, or”.
- (3) After sub-paragraph (1) insert—
- “(1A) A consent to the use of any human admixed embryo must specify use for the purposes of any project of research and may specify conditions subject to which the human admixed embryo may be so used.”
- (4) For sub-paragraph (2) substitute—
- “(2) A consent to the storage of any gametes, any embryo or any human admixed embryo must—
- (a) specify the maximum period of storage (if less than the statutory storage period),
- (b) except in a case falling within paragraph (c), state what is to be done with the gametes, embryo or human admixed embryo if the person who gave the consent dies or is unable, because the person lacks capacity to do so, to vary the terms of the consent or to withdraw it, and
- (c) where the consent is given by virtue of paragraph 8(2A) or 13(2), state what is to be done with the embryo or human admixed embryo if the person to whom the consent relates dies,
- and may (in any case) specify conditions subject to which the gametes, embryo or human admixed embryo may remain in storage.
- (2A) A consent to the use of a person's human cells to bring about the creation *in vitro* of an embryo or human admixed embryo is to be taken unless otherwise stated to include consent to the use of the cells after the person's death.
- (2B) In relation to Scotland, the reference in sub-paragraph (2)(b) to the person lacking capacity is to be read as a reference to the person—
- (a) lacking capacity within the meaning of the Age of Legal Capacity (Scotland) Act 1991, or
- (b) being incapable within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000.”
- (5) For sub-paragraph (4) substitute—

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- “(4) A consent under this Schedule may apply—
- (a) to the use or storage of a particular embryo or human admixed embryo, or
 - (b) in the case of a person providing gametes or human cells, to the use or storage of—
 - (i) any embryo or human admixed embryo whose creation may be brought about using those gametes or those cells, and
 - (ii) any embryo or human admixed embryo whose creation may be brought about using such an embryo or human admixed embryo.
- (5) In the case of a consent falling within sub-paragraph (4)(b), the terms of the consent may be varied, or the consent may be withdrawn, in accordance with this Schedule either generally or in relation to—
- (a) a particular embryo or particular embryos, or
 - (b) a particular human admixed embryo or particular human admixed embryos.”

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