

*Status:* Point in time view as at 06/04/2009. This version of this cross heading contains provisions that are not valid for this point in time.

*Changes to legislation:* Human Fertilisation and Embryology Act 2008, Cross Heading: Adults with Incapacity (Scotland) Act 2000 (asp 4) is up to date with all changes known to be in force on or before 07 August 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 7

#### MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 01/10/2009

- 18 *Adults with Incapacity (Scotland) Act 2000 (asp 4)*  
After section 84 of the Adults with Incapacity (Scotland) Act 2000 insert—
- “84A Application to storage of gametes without adult's consent where adult is incapable**
- (1) The storage of gametes under paragraph 10 of Schedule 3 to the Human Fertilisation and Embryology Act 1990 (storage of gametes without patient's consent where patient is incapable) is to be treated as an intervention in the affairs of an adult under this Act.
  - (2) Sections 2 to 5, 8, 11, 14 and 85 of this Act apply to a registered medical practitioner's decision under that paragraph as they apply to decisions taken for the purposes of this Act.
  - (3) Section 52 of this Act applies to a practitioner's decision under that paragraph as it applies to decisions taken for the purposes of section 47 of this Act.
  - (4) Part 5 of this Act (other than section 52) does not apply to the storage of gametes under that paragraph.
  - (5) Section 83 of this Act applies to a practitioner's decision under that paragraph as if the practitioner were exercising powers under this Act.
  - (6) Nothing in this section authorises any person, other than the person whose gametes are to be stored, to consent to the storage of the gametes.
- 84B Application to use of human cells to create an embryo in vitro without adult's consent**
- (1) The use of an adult's human cells to bring about the creation *in vitro* of an embryo or human admixed embryo for use for the purposes of a project of research—
    - (a) without the adult's consent, and
    - (b) where the adult is incapable,is to be treated as an intervention in the affairs of an adult under this Act.

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- (2) Sections 2 to 5, 8, 11, 14 and 85 of this Act apply to decisions made under paragraphs 16 and 18 of Schedule 3 to the Human Fertilisation and Embryology Act 1990 (when consent to the use of human cells is not required due to adult being incapable of consenting) as they apply to decisions taken for the purposes of this Act.
- (3) Section 51 of this Act does not apply to the use of an adult's human cells to bring about the creation *in vitro* of an embryo or human admixed embryo for use for the purposes of a project of research.
- (4) Section 83 of this Act applies to a decision made under paragraphs 16 and 18 of Schedule 3 to the Human Fertilisation and Embryology Act 1990 as if the person making the decision were exercising powers under this Act.
- (5) Expressions used in this section and in Schedule 3 to the Human Fertilisation and Embryology Act 1990 have the same meaning in this section as in that Schedule.”

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