

**2009 No. 2581**

**HUMAN FERTILISATION AND EMBRYOLOGY**

**The Human Fertilisation and Embryology (Statutory Storage  
Period for Embryos and Gametes) (Amendment) Regulations  
2009**

|                               |                            |
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| <i>Made</i> - - - -           | <i>24th September 2009</i> |
| <i>Laid before Parliament</i> | <i>25th September 2009</i> |
| <i>Coming into force</i> - -  | <i>1st October 2009</i>    |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 14(5) and 45(1), (3) and (3A) of the Human Fertilisation and Embryology Act 1990(a).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) (Amendment) Regulations 2009 and shall come into force on 1st October 2009.

(2) In these Regulations—

“the 2009 Regulations” means the Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) Regulations 2009(b).

**Amendment of the 2009 Regulations in relation to the maximum storage period**

2.—(1) The 2009 Regulations are amended as set out in the following paragraphs.

(2) In regulation 2 (interpretation) after the definition of “the Act” insert—

“the maximum storage period” means—

- (a) in respect of an embryo, the maximum period that may by virtue of these Regulations be specified under section 14(4) of the Act in a licence; and
- (b) in respect of a gamete, the maximum period that may by virtue of these Regulations be specified under section 14(3) of the Act in a licence;”.

(3) In regulation 3 (extension of statutory storage period for embryos for premature infertility)—

- (a) in paragraph (2), for the words from “statutory” to “licences)” substitute “maximum storage period for an embryo”; and
- (b) in paragraph (4), for “statutory” (in both places) substitute “maximum”.

(4) In regulation 4 (extension of statutory storage period for gametes for premature infertility)—

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(a) 1990 c. 37 section 14(5) was amended by section 15(5) of the Human Fertilisation and Embryology Act 2008 c. 22 (“the 2008 Act”). Section 45 was amended by section 30(4) and (5) of the 2008 Act. Section 45(1) provides for the Secretary of State to make regulations for any purpose for which regulations may be made under the Act.

(b) S.I. 2009/1582.

- (a) in paragraph (2), for the words from “statutory” to “licences)” substitute “maximum storage period for a gamete”; and
  - (b) in paragraph (4), for “statutory” (in both places) substitute “maximum”.
- (5) In regulation 5 (transitional period for embryos: original storage period)—
- (a) for paragraph (1) substitute—
    - “(1) In this regulation and regulation 6 “original storage period”, in respect of an embryo means the period of five years beginning with the day on which the embryo was first placed in storage.”; and
    - (b) in paragraphs (3) and (6), for “statutory”, wherever occurring, substitute “maximum”.
- (6) In regulations 6(2) and (5) (transitional provision for embryos: extended storage period), 7(2) and (5) (transitional provision for gametes: statutory storage period) and 8(2) and (5) (transitional provision for gametes: extended storage period), for “statutory”, wherever occurring, substitute “maximum”.

**Application of the 2009 Regulations to embryos falling within the Human Fertilisation and Embryology (Supplementary Provision) Order 2009**

3. After paragraph (4) of regulation 3 of the 2009 Regulations add—
- “(5) Paragraphs (1) to (4) apply to embryos to which a maximum storage period of 10 years would otherwise apply by virtue of article 2 of the Human Fertilisation and Embryology (Supplementary Provision) Order 2009<sup>(a)</sup> as they apply to embryos first placed into storage after the coming into force of these Regulations.”.

Signed by authority of the Secretary of State for Health.

24th September 2009

*Gillian Merron*  
Minister of State,  
Department of Health

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(a) S.I. 2009/2478.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Human Fertilisation and Embryology (Statutory Storage Period for Embryos and Gametes) Regulations 2009 (“the 2009 Regulations”). Regulation 2 clarifies that the 2009 Regulations determine the maximum storage period that a licence may specify for embryos (or as the case may be gametes). Regulation 3 ensures that embryos lawfully stored from 1st October 2009 by virtue of the Human Fertilisation and Embryology (Supplementary Provision) Order 2009 fall within regulation 3 of the 2009 Regulations, and are therefore eligible for extended storage periods provided the other criteria in that regulation are met.

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