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**Changes to legislation:** There are currently no known outstanding effects for the Human Fertilisation and Embryology Act 1990, SCHEDULE 1. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 1

Section 5.

#### THE AUTHORITY: SUPPLEMENTARY PROVISIONS

##### *Status and capacity*

- 1 The Authority shall not be regarded as the servant or agent of the Crown, or as enjoying any status, privilege or immunity of the Crown; and its property shall not be regarded as property of, or property held on behalf of, the Crown.
- 2 The Authority shall have power to do anything which is calculated to facilitate the discharge of its functions, or is incidental or conducive to their discharge, except the power to borrow money.

##### *Expenses*

- 3 The Secretary of State may, with the consent of the Treasury, pay the Authority out of money provided by Parliament such sums as he thinks fit towards its expenses.

##### *Appointment of members*

- 4 (1) All the members of the Authority (including the chairman and deputy chairman who shall be appointed as such) shall be appointed by the Secretary of State.  
(2) In making appointments the Secretary of State shall have regard to the desirability of ensuring that the proceedings of the Authority, and the discharge of its functions, are informed by the views of both men and women.  
(3) The following persons are disqualified for being appointed as chairman or deputy chairman of the Authority—
  - (a) any person who is, or has been, a medical practitioner registered under the <sup>M1</sup>Medical Act 1983 (whether fully, provisionally or with limited registration), or under any repealed enactment from which a provision of that Act is derived,
  - (b) any person who is, or has been, concerned with keeping or using gametes or embryos outside the body, and
  - (c) any person who is, or has been, directly concerned with commissioning or funding any research involving such keeping or use, or who has actively participated in any decision to do so.
- (4) The Secretary of State shall secure that at least one-third but fewer than half of the other members of the Authority fall within sub-paragraph (3)(a), (b) or (c) above, and that at least one member falls within each of paragraphs (a) and (b).

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### Marginal Citations

**M1** 1983 c. 54.

- [<sup>F1</sup>4A** (1) A person (“P”) is disqualified for being appointed as chairman, deputy chairman, or as any other member of the Authority if—
- (a) P is the subject of a bankruptcy restrictions order [<sup>F2</sup>or an interim bankruptcy restrictions order, or a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986],
  - (b) a bankruptcy order has been made against P by a court in Northern Ireland, P's estate has been sequestered by a court in Scotland, or under the law of Northern Ireland or Scotland, P has made a composition or arrangement with, or granted a trust deed for, P's creditors, or
  - (c) in the last five years P has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of an offence and has had a qualifying sentence passed on P.
- (2) Where P is disqualified under sub-paragraph (1)(b) because a bankruptcy order has been made against P or P's estate has been sequestered, the disqualification ceases—
- (a) on P obtaining a discharge, or
  - (b) if the bankruptcy order is annulled or the sequestration of P's estate is recalled or reduced, on the date of that event.
- (3) Where P is disqualified under sub-paragraph (1)(b) because of P having made a composition or arrangement with, or granted a trust deed for, P's creditors, the disqualification ceases—
- (a) at the end of the period of five years beginning with the date on which the terms of the deed of composition or arrangement or trust deed are fulfilled, or
  - (b) if, before then, P pays P's debts in full, on the date on which the payment is completed.
- (4) For the purposes of sub-paragraph (1)(c), the date of conviction is to be taken to be the ordinary date on which the period allowed for making an appeal or application expires or, if an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of its non-prosecution.
- (5) In sub-paragraph (1)(c), the reference to a qualifying sentence is to a sentence of imprisonment for a period of not less than three months (whether suspended or not) without the option of a fine.]

### Textual Amendments

- F1** Sch. 1 para. 4A inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), s. 68\(2\), Sch. 1 para. 2](#); [S.I. 2009/2232, art. 2\(u\)](#)
- F2** Words in Sch. 1 para. 4A(1)(a) substituted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\), art. 1, Sch. 2 para. 26](#) (with arts. 5, 6)

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### *Tenure of office*

- 5 (1) Subject to the following provisions of this paragraph [<sup>F3</sup>and paragraphs 5A and 5B], a person shall hold and vacate office as a member of the Authority in accordance with the terms of his appointment.
- (2) A person shall not be appointed as a member of the Authority for more than three years at a time.
- (3) A member may at any time resign his office by giving notice to the Secretary of State.
- (4) A person who ceases to be a member of the Authority shall be eligible for re-appointment (whether or not in the same capacity).
- [<sup>F4</sup>(4A) A person holding office as chairman, deputy chairman or other member of the Authority is to cease to hold that office if the person becomes disqualified for appointment to it.]
- (5) If the Secretary of State is satisfied that a member of the Authority—
- (a) has been absent from meetings of the Authority for six consecutive months or longer without the permission of the Authority, or
- <sup>F5</sup>(b) .....
- (c) is unable or unfit to discharge the [<sup>F6</sup>person's functions as chairman, deputy chairman or other member],
- the Secretary of State may [<sup>F7</sup>remove the member from office as chairman, deputy chairman or other member].

#### Textual Amendments

- F3** Words in Sch. 1 para. 5(1) inserted (19.1.2010) by [Health Act 2009 \(c. 21\), s. 40\(1\), Sch. 3 para. 3\(2\)](#) (with [Sch. 3 para. 19](#)); [S.I. 2010/30, art. 2\(d\)](#)
- F4** Sch. 1 para. 5(4A) inserted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), s. 68\(2\), Sch. 1 para. 3\(a\)](#); [S.I. 2009/2232, art. 2\(u\)](#)
- F5** Sch. 1 para. 5(5)(b) repealed (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), s. 68\(2\), Sch. 1 para. 3\(b\)\(i\), Sch. 8 Pt. 1](#); [S.I. 2009/2232, art. 2\(u\)](#)
- F6** Words in Sch. 1 para. 5(5)(c) substituted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), s. 68\(2\), Sch. 1 para. 3\(b\)\(ii\)](#); [S.I. 2009/2232, art. 2\(u\)](#)
- F7** Words in Sch. 1 para. 5(5) substituted (1.10.2009) by [Human Fertilisation and Embryology Act 2008 \(c. 22\), s. 68\(2\), Sch. 1 para. 3\(b\)\(iii\)](#); [S.I. 2009/2232, art. 2\(u\)](#)

- [<sup>F8</sup>5A The Secretary of State may suspend a member from office as chairman, deputy chairman or other member of the Authority if it appears to him that one of the conditions in paragraph 5(5) is or may be satisfied in relation to the member.

#### Textual Amendments

- F8** Sch. 1 paras. 5A, 5B inserted (19.1.2010) by [Health Act 2009 \(c. 21\), s. 40\(1\), Sch. 3 para. 3\(3\)](#) (with [Sch. 3 para. 19](#)); [S.I. 2010/30, art. 2\(d\)](#)

- 5B (1) This paragraph applies where the Secretary of State decides to suspend a member under paragraph 5A.

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- (2) The Secretary of State must give notice to the member of the decision and the suspension takes effect on receipt by the member of the notice.
- (3) A notice under subsection (2) is treated as being received by the member—
  - (a) in a case where it is delivered in person or left at the member's proper address, at the time at which it is delivered or left;
  - (b) in a case where it is sent by post to the member at that address, on the third day after the day on which it was posted.
- (4) The initial period of suspension must not exceed 6 months.
- (5) The Secretary of State may review the member's suspension at any time.
- (6) The Secretary of State must review the member's suspension if requested in writing by the member to do so, but need not carry out a review less than 3 months after the beginning of the initial period of suspension.
- (7) Following a review the Secretary of State may—
  - (a) revoke the suspension, or
  - (b) suspend the member for another period of not more than 6 months from the expiry of the current period.
- (8) The Secretary of State must revoke the suspension if at any time—
  - (a) he decides that neither of the conditions mentioned in paragraph 5(5) is satisfied, or
  - (b) he decides that either of those conditions is satisfied but does not remove the member from office as chairman, deputy chairman or other member of the Authority.]

#### Textual Amendments

**F8** Sch. 1 paras. 5A, 5B inserted (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 3 para. 3\(3\)](#) (with [Sch. 3 para. 19](#)); [S.I. 2010/30](#), art. 2(d)

#### *Disqualification of members of Authority for House of Commons and Northern Ireland Assembly*

- 6 In Part II of Schedule 1 to the <sup>M2</sup>House of Commons Disqualification Act 1975 and in Part II of Schedule 1 to the <sup>M3</sup>Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) the following entry shall be inserted at the appropriate place in alphabetical order—

“The Human Fertilisation and Embryology Authority”.

#### Marginal Citations

**M2** 1975 c. 24.

**M3** 1975 c. 25.

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### *Remuneration and pensions of members*

- 7 (1) The Authority may—
- (a) pay to the chairman such remuneration, and
  - (b) pay or make provision for paying to or in respect of the chairman or any other member such pensions, allowances, fees, expenses or gratuities,
- as the Secretary of State may, with the approval of the Treasury, determine.
- (2) Where a person ceases to be a member of the Authority otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the Authority may make to him a payment of such amount as the Secretary of State may, with the consent of the Treasury, determine.

### *Staff*

- 8 (1) The Authority may appoint such employees as it thinks fit, upon such terms and conditions as the Authority, with the approval of the Secretary of State and the consent of the Treasury, may determine.
- (2) The Authority shall secure that any employee whose function is, or whose functions include, the inspection of premises is of such character, and is so qualified by training and experience, as to be a suitable person to perform that function.
- (3) The Authority shall, as regards such of its employees as with the approval of the Secretary of State it may determine, pay to or in respect of them such pensions, allowances or gratuities (including pensions, allowances or gratuities by way of compensation for loss of employment), or provide and maintain for them such pension schemes (whether contributory or not), as may be so determined.
- (4) If an employee of the Authority—
- (a) is a participant in any pension scheme applicable to that employment, and
  - (b) becomes a member of the Authority,
- he may, if the Secretary of State so determines, be treated for the purposes of the pension scheme as if his service as a member of the Authority were service as employee of the Authority, whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 7 above.

### *Proceedings*

- 9 (1) [<sup>F9</sup>Subject to any provision of this Act, the] Authority may regulate its own proceedings, and make such arrangements as it thinks appropriate for the discharge of its functions.
- (2) The Authority may pay to the members of any committee or sub-committee such fees and allowances as the Secretary of State may, with the consent of the Treasury, determine.

#### **Textual Amendments**

- F9** Words in Sch. 1 para. 9(1) substituted (1.10.2009) by [Human Fertilisation and Embryology Act 2008](#) (c. 22), s. 68(2), [Sch. 7 para. 15\(a\)](#); S.I. 2009/2232, art. 2(y)

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- 10 (1) A member of the Authority who is in any way directly or indirectly interested in a licence granted or proposed to be granted by the Authority shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest to the Authority.
- (2) Any disclosure under sub-paragraph (1) above shall be recorded by the Authority.
- (3) Except in such circumstances (if any) as may be determined by the Authority under paragraph 9(1) above, the member shall not participate after the disclosure in any deliberation or decision of the Authority <sup>F10</sup>... with respect to the licence, and if he does so the deliberation or decision shall be of no effect.

#### Textual Amendments

**F10** Words in Sch. 1 para. 10(3) repealed (1.10.2009) by [Human Fertilisation and Embryology Act 2008](#) (c. 22), s. 68(2), [Sch. 7 para. 15\(b\)](#), [Sch. 8 Pt. 1](#); S.I. 2009/2232, art. 2(y)

- 11 The validity of any proceedings of the Authority, or of any committee or sub-committee, shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

#### *Instruments*

- 12 The fixing of the seal of the Authority shall be authenticated by the signature of the chairman or deputy chairman of the Authority or some other member of the Authority authorised by the Authority to act for that purpose.
- 13 A document purporting to be duly executed under the seal of the Authority, or to be signed on the Authority's behalf, shall be received in evidence and shall be deemed to be so executed or signed unless the contrary is proved.

#### *Investigation by Parliamentary Commissioner*

- 14 The Authority shall be subject to investigation by the Parliamentary Commissioner and accordingly, in Schedule 2 to the <sup>M4</sup>Parliamentary Commissioner Act 1967 (which lists the authorities subject to investigation under that Act), the following entry shall be inserted at the appropriate place in alphabetical order—

“Human Fertilisation and Embryology Authority”.

#### Marginal Citations

**M4** 1967 c. 13.

#### *<sup>F11</sup>Application of Statutory Instruments Act 1946*

#### Textual Amendments

**F11** Sch. 1 para. 15 and cross-heading inserted (6.4.2009) by [Human Fertilisation and Embryology Act 2008](#) (c. 22), s. 68(2), [Sch. 7 para. 15\(c\)](#); S.I. 2009/479, art. 5(g)(h) (with art. 7Sch.)

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- 15      The Statutory Instruments Act 1946 applies to any power to make orders or regulations conferred by an Act on the Authority as if the Authority were a Minister of the Crown.]

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