

HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

EXPLANATORY NOTES

BACKGROUND

Review of the 1990 Act

4. The provisions of the 1990 Act were enacted after consideration of the report of the Committee of Inquiry into Human Fertilisation and Embryology, chaired by Dame (now Baroness) Mary Warnock. This report was published in July 1984 and considered the social, ethical and legal implications of developments in the field of human reproduction, most notably the birth in 1978 of the first child conceived through IVF.
5. The 1990 Act regulates the creation, keeping and use of embryos outside the human body and the storage and use of gametes to create embryos. The 1990 Act prohibits certain activities from being carried out without a licence. Other activities including placing non-human embryos or gametes in a woman, are subject to an absolute prohibition.
6. Licences can be granted for the purpose of fertility treatment, for storage and for research. Following amendments made to the 1990 Act by the 2007 Regulations, a licence is also required under the 1990 Act in respect of non-medical fertility services. Non-medical fertility services are defined as any services that are provided, in the course of a business, for the purpose of assisting women to carry children, but which are not medical, surgical or obstetric services. For example internet-based businesses that arrange for donated sperm to be delivered to women at home for self-insemination.
7. The 1990 Act imposes mandatory conditions on each type of licence and enables other conditions to be imposed. Activities under the 1990 Act are overseen by the HFEA, a statutory licensing authority.
8. In January 2004, the Government announced a review of the 1990 Act citing developments in reproductive medicine since the passage of the original legislation, and conducted a public consultation during the latter half of 2005. The Government followed this by publishing the White Paper: *Review of the Human Fertilisation and Embryology Act: Proposals for revised legislation (including establishment of the Regulatory Authority for Tissue and Embryos)* in December 2006 (Cm 6989) containing policy proposals.
9. Following publication of the White Paper a draft Bill was published in May 2007 for scrutiny by a Joint Committee of both Houses. Policy proposals from the White Paper as updated following pre-legislative scrutiny are implemented by the Human Fertilisation and Embryology Act 2008.