

These notes refer to the Human Fertilisation and Embryology Act 2008 (c.22) which received Royal Assent on 13 November 2008

HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Amendments of Human Fertilisation and Embryology Act 1990

Section 13: Consent to use or storage of gametes, embryos and human admixed embryos etc.

Cases where consent not required for storage

93. Patients who undergo chemotherapy or radiotherapy can be left infertile. Prior to treatment, if time allows, fertility could be preserved by placing gametes in storage. However, in some cases, the patient might not have the capacity to give consent to storage. In the case of childhood cancer, a child may be too young to be considered competent to consent to storage of their gametes.
94. Similarly, people who suffer a serious physical injury, the treatment of which could again result in infertility, would also be able to preserve their fertility by this means. For example, a severe injury may have rendered an adult unable, perhaps because of a coma, to give consent or direct another person to do so on his or her behalf.
95. New paragraphs 9 and 10 of Schedule 3 to the 1990 Act will allow the storage of gametes, without written consent, providing a medical practitioner certifies that the conditions set out in those paragraphs have been met. The gametes cannot be used for any purpose unless the gamete provider becomes competent and consents to such use.