

HUMAN FERTILISATION AND EMBRYOLOGY ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Parenthood in Cases Involving Assisted Reproduction

Section 56: Amendments relating to parenthood in cases involving assisted reproduction

Amendments in Part 1 of Schedule 6

Children Act 1989

210. **Paragraph 26** amends section 2 of the Children Act 1989 (“the 1989 Act”) to enable a second female parent to have parental responsibility for a child. A second female parent will have parental responsibility automatically where she and the mother of the child are in a civil partnership at the time of the fertility treatment, or where the mother and second female parent were civil partners either by the time of the child’s birth or at any time between treatment and the child’s birth. The second female parent will also have parental responsibility if she acquires it in accordance with the provisions of the Act.
211. **Paragraph 27** inserts a new section 4ZA into the 1989 Act (acquisition of parental responsibility by second female parent under section 43). This new section enables a second female parent to acquire parental responsibility by registering as the child’s parent in the register of births, by making a parental responsibility agreement with the child’s mother, or by obtaining a court order.
212. **Paragraph 28** inserts in section 12 of the 1989 Act (residence orders and parental responsibility) a new subsection (1A) which replicates for second female parents the provision for fathers in subsection (1) of that section. This means that where a court makes a residence order in favour of a second female parent under section 43 and she does not already have parental responsibility the court must also make a parental responsibility order under new section 4ZA.
213. **Paragraph 29** amends section 91 of the 1989 Act (duration of orders) so that an order or agreement under new section 4ZA continues in force until the child is 18 unless it is brought to an earlier end.
214. **Paragraphs 30 and 31** make minor amendments to section 104 (regulations and orders) and section 105 (interpretation) to take account of new section 4ZA.
215. **Paragraph 32** extends references in Schedule 1 to the 1989 Act (financial provision for children) so that references to a child’s father will also apply to a second female parent.