



# Human Fertilisation and Embryology Act 2008

## 2008 CHAPTER 22

### PART 1

#### AMENDMENTS OF THE HUMAN FERTILISATION AND EMBRYOLOGY ACT 1990

##### *Activities governed by the 1990 Act*

### **3 Prohibitions in connection with embryos**

- (1) Section 3 of the 1990 Act (prohibitions in connection with embryos) is amended as follows.
- (2) For subsection (2) substitute—
  - “(2) No person shall place in a woman—
    - (a) an embryo other than a permitted embryo (as defined by section 3ZA), or
    - (b) any gametes other than permitted eggs or permitted sperm (as so defined).”
- (3) In subsection (3)—
  - (a) at the end of paragraph (b), insert “ or ”, and
  - (b) omit paragraph (d) and the word “or” immediately before it.
- (4) In subsection (4), for “the day when the gametes are mixed” substitute “ the day on which the process of creating the embryo began ”.
- (5) After section 3 insert—

#### **“3ZA Permitted eggs, permitted sperm and permitted embryos**

- (1) This section has effect for the interpretation of section 3(2).

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: Human Fertilisation and Embryology Act 2008, Cross Heading: Activities governed by the 1990 Act is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) A permitted egg is one—
  - (a) which has been produced by or extracted from the ovaries of a woman, and
  - (b) whose nuclear or mitochondrial DNA has not been altered.
- (3) Permitted sperm are sperm—
  - (a) which have been produced by or extracted from the testes of a man, and
  - (b) whose nuclear or mitochondrial DNA has not been altered.
- (4) An embryo is a permitted embryo if—
  - (a) it has been created by the fertilisation of a permitted egg by permitted sperm,
  - (b) no nuclear or mitochondrial DNA of any cell of the embryo has been altered, and
  - (c) no cell has been added to it other than by division of the embryo's own cells.
- (5) Regulations may provide that—
  - (a) an egg can be a permitted egg, or
  - (b) an embryo can be a permitted embryo,
 even though the egg or embryo has had applied to it in prescribed circumstances a prescribed process designed to prevent the transmission of serious mitochondrial disease.
- (6) In this section—
  - (a) “woman” and “man” include respectively a girl and a boy (from birth), and
  - (b) “prescribed” means prescribed by regulations.”
- (6) The Human Reproductive Cloning Act 2001 (c. 23) (which is superseded by the preceding provisions of this section) ceases to have effect.

#### **4 Prohibitions in connection with genetic material not of human origin**

- (1) In section 4 of the 1990 Act (prohibitions in connection with gametes)—
  - (a) in subsection (1), omit—
    - (i) paragraph (c), and
    - (ii) the word “or” immediately before it, and
  - (b) in subsection (5), after “section 3” insert “ or 4A ”.
- (2) After section 4 of the 1990 Act insert—

##### **“4A Prohibitions in connection with genetic material not of human origin**

- (1) No person shall place in a woman—
  - (a) a human admixed embryo,
  - (b) any other embryo that is not a human embryo, or
  - (c) any gametes other than human gametes.
- (2) No person shall—

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- (a) mix human gametes with animal gametes,
  - (b) bring about the creation of a human admixed embryo, or
  - (c) keep or use a human admixed embryo,except in pursuance of a licence.
- (3) A licence cannot authorise keeping or using a human admixed embryo after the earliest of the following—
  - (a) the appearance of the primitive streak, or
  - (b) the end of the period of 14 days beginning with the day on which the process of creating the human admixed embryo began, but not counting any time during which the human admixed embryo is stored.
- (4) A licence cannot authorise placing a human admixed embryo in an animal.
- (5) A licence cannot authorise keeping or using a human admixed embryo in any circumstances in which regulations prohibit its keeping or use.
- (6) For the purposes of this Act a human admixed embryo is—
  - (a) an embryo created by replacing the nucleus of an animal egg or of an animal cell, or two animal pronuclei, with—
    - (i) two human pronuclei,
    - (ii) one nucleus of a human gamete or of any other human cell, or
    - (iii) one human gamete or other human cell,
  - (b) any other embryo created by using—
    - (i) human gametes and animal gametes, or
    - (ii) one human pronucleus and one animal pronucleus,
  - (c) a human embryo that has been altered by the introduction of any sequence of nuclear or mitochondrial DNA of an animal into one or more cells of the embryo,
  - (d) a human embryo that has been altered by the introduction of one or more animal cells, or
  - (e) any embryo not falling within paragraphs (a) to (d) which contains both nuclear or mitochondrial DNA of a human and nuclear or mitochondrial DNA of an animal (“animal DNA”) but in which the animal DNA is not predominant.
- (7) In subsection (6)—
  - (a) references to animal cells are to cells of an animal or of an animal embryo, and
  - (b) references to human cells are to cells of a human or of a human embryo.
- (8) For the purposes of this section an “animal” is an animal other than man.
- (9) In this section “embryo” means a live embryo, including an egg that is in the process of fertilisation or is undergoing any other process capable of resulting in an embryo.
- (10) In this section—
  - (a) references to eggs are to live eggs, including cells of the female germ line at any stage of maturity, but (except in subsection (9)) not

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- including eggs that are in the process of fertilisation or are undergoing any other process capable of resulting in an embryo, and
- (b) references to gametes are to eggs (as so defined) or to live sperm, including cells of the male germ line at any stage of maturity.
- (11) If it appears to the Secretary of State necessary or desirable to do so in the light of developments in science or medicine, regulations may—
- (a) amend (but not repeal) paragraphs (a) to (e) of subsection (6);
  - (b) provide that in this section “embryo”, “eggs” or “gametes” includes things specified in the regulations which would not otherwise fall within the definition.
- (12) Regulations made by virtue of subsection (11)(a) may make any amendment of subsection (7) that appears to the Secretary of State to be appropriate in consequence of any amendment of subsection (6).”

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