



Human Fertilisation and Embryology Act 2008

2008 CHAPTER 22

PART 1 **U.K.**

AMENDMENTS OF THE HUMAN FERTILISATION AND EMBRYOLOGY ACT 1990

Miscellaneous

29 Offences under the 1990 Act **U.K.**

- (1) Section 41 of the 1990 Act (offences) is amended as follows.
- (2) In subsection (1)(a), for “4(1)(c)” substitute “ 4A(1) or (2) ”.
- (3) In subsection (2)—
 - (a) after paragraph (a) insert—

“(aa) contravenes section 3(1B) of this Act,”
 - (b) after paragraph (ba) insert—

“(bb) contravenes section 4(1A) of this Act,” and
 - (c) in paragraph (d), for “section 24(7)(a)” substitute “ section 24(5D) ”.
- (4) In subsection (4), omit “, other than an offence to which subsection (4B) applies,”.
- (5) In subsection (5), for “section 33” substitute “ section 33A ”.
- (6) In subsection (7), for “section 10(2)(a)” substitute “ section 19B(3)(a) or 20B(3)(e) ”.
- (7) In subsection (8)—
 - (a) for “or the nominal licensee” substitute “ or the holder of the licence ”, and
 - (b) for “or embryos” substitute “ , embryos or human admixed embryos ”.
- (8) In subsection (9), omit “(6),”.
- (9) For subsection (10) substitute—

Changes to legislation: Human Fertilisation and Embryology Act 2008, Section 29 is up to date with all changes known to be in force on or before 12 May 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) [View outstanding changes](#)

“(10) It is a defence for a person (“the defendant”) charged with an offence of doing anything which, under section 3(1) or (1A), 4(1) or 4A(2), cannot be done except in pursuance of a licence to prove—

- (a) that the defendant was acting under the direction of another, and
- (b) that the defendant believed on reasonable grounds—
 - (i) that the other person was at the material time the person responsible under a licence, a person designated by virtue of section 17(2)(b) of this Act as a person to whom a licence applied, or a person to whom directions had been given under section 24(5A) to (5D), and
 - (ii) that the defendant was authorised by virtue of the licence or directions to do the thing in question.

(10A) It is a defence for a person (“the defendant”) charged with an offence of doing anything which, under section 3(1A) or (1B) or 4(1A), cannot be done except in pursuance of a licence or a third party agreement to prove—

- (a) that the defendant was acting under the direction of another, and
- (b) that the defendant believed on reasonable grounds—
 - (i) that the other person was at the material time the person responsible under a licence, a person designated by virtue of section 17(2)(b) of this Act as a person to whom a licence applied, a person to whom a third party agreement applied, or a person to whom directions had been given under section 24(5A) to (5D), and
 - (ii) that the defendant was authorised by virtue of the licence, third party agreement or directions to do the thing in question.”

(10) Omit subsections (2A), (4A), (4B) and (6).

(11) Section 41(2) of the 1990 Act as amended by subsection (3) is to be treated as a relevant enactment for the purposes of section 282 of the Criminal Justice Act 2003 (c. 44) (increase in maximum term that may be imposed on summary conviction of offence triable either way).

Changes to legislation:

Human Fertilisation and Embryology Act 2008, Section 29 is up to date with all changes known to be in force on or before 12 May 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.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- [s. 55\(3\)\(e\)](#) and word inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 75\(b\)](#)