



Human Fertilisation and Embryology Act 2008

2008 CHAPTER 22

PART 2

PARENTHOOD IN CASES INVOLVING ASSISTED REPRODUCTION

Meaning of “father”

35 Woman married [^{F1}to [^{F2}, or civil partner of,] a man] at time of treatment

(1) If—

- (a) at the time of the placing in her of the embryo or of the sperm and eggs or of her artificial insemination, W was a party to a marriage [^{F3}with a man][^{F4}or a civil partnership with a man], and
- (b) the creation of the embryo carried by her was not brought about with the sperm of the other party to the marriage [^{F5}or civil partnership],

then, subject to section 38(2) to (4), the other party to the marriage [^{F5}or civil partnership] is to be treated as the father of the child unless it is shown that he did not consent to the placing in her of the embryo or the sperm and eggs or to her artificial insemination (as the case may be).

- (2) This section applies whether W was in the United Kingdom or elsewhere at the time mentioned in subsection (1)(a).

Textual Amendments

- F1** Words in s. 35 heading inserted (E.W.) (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 7 para. 38\(2\)](#); S.I. 2014/93, art. 3(k)(iv); and said words in s. 35 heading also inserted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\), art. 1\(2\), Sch. 5 para. 18\(2\)\(a\)](#); and said words also inserted (N.I.) (13.1.2020) by [The Marriage \(Same-sex Couples\)](#)

Changes to legislation: *Human Fertilisation and Embryology Act 2008, Section 35 is up to date with all changes known to be in force on or before 15 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) View outstanding changes*

and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **26(2)(a)**

- F2** Words in s. 35 heading inserted (E.W.S.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **16(2)(a)**; and said words in s. 35 heading also inserted (N.I.) (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **26(2)(a)**
- F3** Words in s. 35(1)(a) inserted (E.W.) (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 7 para. 38(3)**; S.I. 2014/93, art. 3(k)(iv); and said words in s. 35(1)(a) also inserted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 5 para. 18(2)(b)**; and said words in s. 35(1)(a) also inserted (N.I.) (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **26(2)(b)(i)** (with regs. 6-9)
- F4** Words in s. 35(1)(a) inserted (E.W.S.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **16(2)(b)(i)**; and said words in s. 35(1)(a) also inserted (N.I.) (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **26(2)(b)(i)** (with regs. 6-9)
- F5** Words in s. 35(1) inserted (E.W.S.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **16(2)(b)(ii)**; and said words in s. 35(1) also inserted (N.I.) (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **26(2)(b)(ii)** (with regs. 6-9)

Changes to legislation:

Human Fertilisation and Embryology Act 2008, Section 35 is up to date with all changes known to be in force on or before 15 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.

[View outstanding changes](#)

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\(b\)](#)