Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, The Human Fertilisation and Embryology (Special Exemption) Regulations 2009 ISBN 978-0-11-148052-6*

Draft Regulations laid before Parliament under section 45(4) of the Human Fertilisation and Embryology Act 1990, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. 000

HUMAN FERTILISATION AND EMBRYOLOGY

The Human Fertilisation and Embryology (Special Exemption) Regulations 2009

Made - - - -	*2009*
Coming into force - -	*1st October 2009*

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 43(1) and 45(1) to (3A) of the Human Fertilisation and Embryology Act 1990(**1**).

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 45(4) of that Act.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Human Fertilisation and Embryology (Special Exemption) Regulations 2009 and shall come into force on 1st October 2009.

(2) In these Regulations—

"the Act" means the Human Fertilisation and Embryology Act 1990, and

"embryo" and "gametes" have the same meaning as they have by virtue of section 1(1), (4) and (6) of the Act in the other provisions of the Act (apart from section 4A)(**2**).

Keeping and examining gametes and embryos in connection with crime

2.—(1) Subject to the provisions of this regulation a person to whom a licence applies(**3**) or a person specified by the Authority may—

(a) keep or examine embryos; and

(b) store gametes,

in connection with the investigation of, or proceedings for, an offence under the Act.

(**1**) 1990 c. 37.

(**2**) Subsections (1) and (4) of section 1 were substituted by subsections (2) and (4) of section 1 of the Human Fertilisation and Embryology Act 2008 (c. 22) ("the 2008 Act"). Subsection (6) of section 1 was inserted by subsection (5) of section 1 of the 2008 Act. Section 45 was amended by section 30 of the 2008 Act.

(**3**) "A person to whom a licence applies" is defined in section 17(2) of the Act.

(2) This regulation applies only to embryos and gametes—

(a) of which the Authority has taken possession; or

(b) which are being or have been transferred from the person by whom they were being kept to another person in accordance either with directions or with other arrangements made by the Authority in connection with the investigation of, or proceedings for, an offence under the Act.

(3) Embryos and gametes to which this regulation applies shall be kept or examined in accordance with paragraphs (4), (5) and (6).

(4) Embryos and gametes shall be kept so as to secure, so far as reasonably practicable, that their condition does not deteriorate.

(5) Where—

(a) embryos or gametes are kept or examined in any place where any activity governed by the Act is carried out in pursuance of a licence; or

(b) gametes are stored under regulation 3,

their containers shall be labelled in such a way as to make containers of embryos or gametes referred to in sub-paragraph (a) easily distinguishable from containers of gametes referred to in sub-paragraph (b).

(6) Embryos and gametes shall be kept or examined in such conditions as are reasonable to secure that access to them is denied to persons other than those referred to in paragraph (1) who are concerned with the particular investigation or proceedings in connection with which those embryos or gametes are being kept or examined.

Storage of gametes for other purposes

3.—(1) Subject to the provisions of this regulation, a person may store gametes which are to be used only for a purpose or purposes falling within paragraph (2), but only in so far as such purposes do not consist of or include treatment services**(4)** or any purpose falling within paragraph (3).

(2) A purpose falls within this paragraph if it consists of—

(a) research on gametes;

(b) the development or testing of pharmaceutical or contraceptive products; or

(c) teaching requiring the use of gametes.

(3) A purpose falls within this paragraph if it consists of or includes any of the following—

(a) the use of gametes in any mixing of live egg and live sperm whether human or not;

(b) any use of gametes which could not be authorised by a licence;

(c) the supply of gametes to any person to whom a licence applies for use in any activity authorised by that licence;

(d) the supply of gametes to any person for money or other benefit unless the giving of the money or other benefit is authorised by directions in the case of gametes supplied in pursuance of a licence; or

(e) the export of gametes from the United Kingdom.

(4) Gametes for the supply of which a person has given money or other benefit may not be stored by that person under this regulation unless the giving of the money or other benefit was authorised by directions in the case of gametes obtained in pursuance of a licence.

(**4**) "Treatment services" are defined in section 2(1) of the Act.