Number 18 *of* 2024

Health (Assisted Human Reproduction) Act 2024

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HEALTH (ASSISTED HUMAN REPRODUCTION) ACT 2024

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Number 18 *of* 2024

Health (Assisted Human Reproduction) Act 2024

An Act to regulate the provision of any treatment or procedure, including such treatment or procedure for the purposes of surrogacy within or, in relation to certain persons connected with the State, outside the State, that involves the handling of gametes, embryos or tissues, or any combination thereof, for the purposes of establishing, or preserving the possibility of establishing, a pregnancy (to be known as "AHR treatment") and, to that end, to prohibit a person from providing, within the State, AHR treatment unless the person holds a licence, granted by a body established by this Act, to be known as "*An tÚdarás Rialála um Atáirgeadh Daonna Cuidithe*" or, in the English language, the "Assisted Human Reproduction Regulatory Authority" (otherwise referred to in this Act as the "AHRRA"), authorising the person to provide the AHR treatment concerned; to regulate research involving embryos, the derivation, collection, storage or use of embryonic stem cells or stem cell lines or the derivation, collection, storage or use of induced pluripotent stem cells or stem cell lines (to be known collectively as "ESC research"), and, to that end, to prohibit a person from undertaking ESC research unless the person holds a licence, granted by the AHRRA, authorising the person to undertake the ESC research concerned; to provide certain rights for a person born as a result of AHR treatment to access information concerning his or her origins; to provide for a comprehensive regulatory scheme (including the suspension or revocation of licences granted under this Act and the imposition of, *inter alia*, pecuniary sanctions on holders, or certain former holders, of licences) overseen by the AHRRA; to provide for consequential and other amendments to other enactments; and to provide for related matters. [2*nd July*, 2024]

Be it enacted by the Oireachtas as follows:

PART 1

Preliminary and General

Short title, collective citation and commencement

1. (1) This Act may be cited as the Health (Assisted Human Reproduction) Act 2024.

(2) *Section 226* and the Irish Nationality and Citizenship Acts 1956 to 2004 may be cited together as the Irish Nationality and Citizenship Acts 1956 to 2024.

(3) *Section 230* and the Civil Registration Acts 2004 to 2019 may be cited together as the Civil Registration Acts 2004 to 2024.

(4) This Act (other than *sections 226*, *227*, *228*, *229*, *230* and *231*) shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

(5) *Sections 226*, *227*, *228* and *231* shall come into operation on such day or days as the Minister for Justice may, after consultation with the Minister, appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

(6) *Section 229* shall come into operation on such day or days as the Minister for Foreign Affairs may, after consultation with the Minister, appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

(7) *Section 230* shall come into operation on such day or days as the Minister for Social Protection may, after consultation with the Minister, appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

Interpretation - general

2. (1) In this Act—

"Act of 2004" means the Civil Registration Act 2004;

"Act of 2007" means the Medical Practitioners Act 2007;

"Act of 2010" means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

"Act of 2014" means the Companies Act 2014;

"Act of 2015" means the Children and Family Relationships Act 2015;

"adult (AHR)" means a person born as a result of AHR treatment who has attained the age of 16 years;

"AHR" means assisted human reproduction;

"AHR counselling"—

(a) in relation to AHR treatment, other than AHR treatment to be provided pursuant to a surrogacy agreement attached to a *section 53* application, means a service provided by an AHR counsellor under which he or she counsels a person regarding the potential social and psychological implications that may arise in the case of the person where that person, or another person with whom the first-mentioned person is connected, is provided such treatment, or

(b) in relation to AHR treatment to be provided pursuant to a surrogacy agreement attached to a *section 53* application, means a service provided by an AHR counsellor under which he or she—

(i) if the application involves two intending parents, counsels such parents regarding the potential social and psychological implications that may arise in the case of such agreement being approved under *section 53* and, if applicable, such parents, or one of them, as the case may be, being provided such treatment,

(ii) if the application involves a single intending parent, counsels such parent regarding the potential social and psychological implications that may arise in the case of such agreement being approved under *section 53* and, if applicable, such parent being provided such treatment, or

(iii) counsels the potential surrogate mother regarding the potential social and psychological implications that may arise in the case of such agreement being approved under *section 53* and such mother being provided such treatment;

"AHR counsellor", in relation to an AHR treatment, means a person who has the requisite skills and judgment to provide AHR counselling as regards such treatment;

"AHRRA" shall be construed in accordance with *section 122(1)*;

"AHR treatment" means assisted human reproduction treatment;

"AHR treatment facility", in relation to an AHR treatment that the AHR treatment provider is authorised to provide by virtue of the licence held by the provider, means the premises specified in the licence at which the provider is authorised to provide such treatment;

"AHR treatment provider" means the holder of a licence authorising the holder to provide the AHR treatment the subject of the licence at the premises specified in the licence;

"animal" means an animal other than a human;

"applicant", in relation to an application made under this Act, means the person who made the application;

"application", in relation to an application made to the AHRRA, means an application in the specified form;

"assisted human reproduction treatment" means any treatment or procedure that involves the handling of gametes, embryos or tissues (including the storage thereof), or any combination thereof, for the purposes of establishing a pregnancy or enabling a pregnancy to be established, and includes—

(a) a DAHR procedure, and

(b) a further DAHR procedure;

"authorised officer" means a person appointed under *section 171(1)* to be an authorised officer;

"capacity" has the meaning assigned to it by the Assisted Decision-Making (Capacity) Act 2015;

"child" means a person who has not attained the age of 18 years;

"child (AHR)" means a person born as a result of AHR treatment who has not attained the age of 16 years;

"civil partner" shall be construed in accordance with section 3 of the Act of 2010;

"cohabitant" shall be construed in accordance with section 172(1) of the Act of 2010;

"company" means—

(a) a company formed and registered under the Act of 2014, or

(b) an existing company within the meaning of that Act;

"court" shall be construed in accordance with *section 5* (except in the case of *subsection (2)*);

"created", in relation to an embryo, includes formed;

"DAHR procedure" has the meaning assigned to it by the Act of 2015;

"disposed of", in relation to a gamete, embryo or tissue (howsoever described in this Act), means the gamete, embryo or tissue is destroyed (by whatever means);

"donor-conceived child" has the meaning assigned to it by the Act of 2015;

"embryo" means a human embryo formed by the fertilisation of a human egg by a human sperm;

"embryo transfer" means the final procedure of an *in vitro* fertilisation process that consists of the transfer of one or more than one embryo into the womb of a woman;

"embryonic stem cell" means a stem cell, derived from the inner cell mass of a five to seven day-old embryo, which is self-renewing and pluripotent;

"enactment" has the same meaning as it has in the Interpretation Act 2005;

"ESC" means embryos and stem cells;

"ESC research" means—

(a) research involving embryos, or

(b) research involving the derivation, collection, storage or use of—

(i) embryonic stem cells or stem cell lines, or

(ii) induced pluripotent stem cells or stem cell lines;

"ESC research facility", in relation to ESC research that an ESC researcher is authorised to undertake by virtue of the licence held by the researcher, means the

premises specified in the licence at which the researcher may undertake such research;

"ESC researcher" means the holder of a licence authorising the holder to undertake the ESC research the subject of the licence at the premises specified in the licence;

"establishment day" means the day appointed under *section 121*;

"fit and proper", in relation to a person, shall be construed in accordance with *Schedule 1*;

"further DAHR procedure" has the meaning assigned to it by the Act of 2015;

"gamete" means—

(a) a human sperm, which is formed in the body of and provided by a male, or

(b) a human egg, which is formed in the body of and provided by a female;

"induced pluripotent stem cell" means a somatic cell with a specialised function, such as a skin cell, that has been reprogrammed to be a pluripotent stem cell;

"intending parent", in relation to AHR treatment, means a person who intends to become the parent of any child born as a result of such treatment or, in the case of such treatment provided to any other person (including a child), to safeguard that person's possibility of becoming a person first-mentioned in this definition;

"legal practitioner" has the meaning assigned to it by the Legal Services Regulation Act 2015;

"licence" means a licence granted under *section 155(1)*;

"licence application" means an application under *section 153(1)*;

"local authority" means a local authority within the meaning of the Local Government Act 2001;

"medical specialist" means a registered medical practitioner whose name is entered in the Specialist Division of the register of medical practitioners maintained by the Medical Council under section 43(2)(b) of the Act of 2007;

"Minister" means the Minister for Health;

"National Donor-Conceived Person Register" means the register known by that name established and maintained under section 33 of the Act of 2015;

"National Surrogacy Register" means the register known by that name established and maintained under *section 68*;

"PAHR" means posthumous assisted human reproduction;

"parental order" means (other than in *Part 8* or *12*) an order granted by the court under *section 66(1)(a)* for the transfer of the parentage of a child;

"person (D)", in relation to a surviving partner, means the deceased person referred to in the definition of "surviving partner";

"pluripotent stem cell" means a stem cell that can become all the cell types that are found in an implanted embryo, foetus or developed organism, but not the embryonic components of the trophoblast and placenta that are required to support development and birth;

"posthumous assisted human reproduction" means AHR treatment involving the use of the gametes of person (D), or of an embryo created by the use of such gametes, subsequent to the death of such person;

"premises" includes place;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"public body" means—

(a) a Department of State,

(b) a local authority,

(c) any other entity established by or under any enactment (other than the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act), charter or any scheme administered by a Minister of the Government,

(d) a company a majority of the shares in which are held by or on behalf of a Minister of the Government,

(e) a subsidiary (within the meaning of the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act) of a company referred to in *paragraph (d)*,

(f) an entity established or appointed by the Government or a Minister of the Government,

(g) any entity (other than one that falls within *paragraph (e)*) that is directly or indirectly controlled by an entity that falls within any of *paragraphs (b)* to *(f)*,

(h) an entity on which any functions are conferred by or under any enactment (other than the Act of 2014 or a former enactment relating to companies within the meaning of section 5 of that Act) or charter, or

(i) a designated institution of higher education (within the meaning of the Higher Education Authority Act 2022) in receipt of public funding;

"pursuant to" includes for the purposes of;

"record" includes—

(a) a book or other written or printed material in any form (including in any electronic device or in machine readable form),

(b) a map, plan or drawing,

(c) a disc, tape or other mechanical or electronic device in which data other than visual images are embodied so as to be capable, with or without the aid of some

other mechanical or electronic equipment, of being reproduced from the disc, tape or other device,

(d) a film, disc, tape or other mechanical or electronic device in which visual images are embodied so as to be capable, with or without the aid of some other mechanical or electronic equipment, of being reproduced from the film, disc, tape or other device, and

(e) a copy or part of any thing which falls within *paragraph (a)*, *(b)*, *(c)* or *(d)*,

and a copy, in any form, of a record shall be deemed, for the purposes of this Act, to have been created at the same time as the record;

"registered medical practitioner" has the meaning assigned to it by the Act of 2007;

"Regulations of 2006" means the European Communities (Quality and Safety of Human Tissues and Cells) Regulations 2006 (S.I. No. 158 of 2006);

"relevant activity" means—

(a) the provision of AHR treatment, or

(b) the undertaking of ESC research;

"relevant donation (E)" means, as appropriate—

(a) a donation of supernumerary embryos made in accordance with—

(i) *section 30(1)*, or

(ii) the law of a jurisdiction other than the State,

for use in the provision of AHR treatment in accordance with this Act, or

(b) the supernumerary embryos the subject of such donation;

"relevant donation (ER)" means, as appropriate—

(a) a donation of supernumerary embryos made in accordance with—

(i) *section 31*, or

(ii) the law of a jurisdiction other than the State,

for use in the undertaking of ESC research in accordance with this Act, or

(b) the supernumerary embryos the subject of such donation;

"relevant donation (G)" means, as appropriate—

(a) a donation of gametes made in accordance with—

(i) *section 27(1)* or *(2)*, or

(ii) the law of a jurisdiction other than the State,

for use in the provision of AHR treatment in accordance with this Act, or

(b) the gametes the subject of such donation;

"relevant donor (E)", in relation to a relevant donation (E), means—

(a) subject to *paragraph (b)*, the person who has made or proposes to make the donation, or

(b) if *section 30(1)(b)* applies, the two persons who have made or propose to make the donation;

"relevant donor (ER)", in relation to a relevant donation (ER), means—

(a) subject to *paragraph (b)*, the person who has made or proposes to make the donation, or

(b) if *section 31(b)* applies, the two persons who have made or propose to make the donation;

"relevant donor (G)", in relation to a relevant donation (G), means the person who has made or proposes to make the donation;

"relevant storage (E)" means, as appropriate—

(a) the storage of embryos by the holder of a licence pursuant to the provisions of the licence, or

(b) the embryos the subject of such storage;

"relevant storage (G)" means, as appropriate—

(a) the storage of gametes by the holder of a licence pursuant to the provisions of the licence, or

(b) the gametes the subject of such storage;

"relevant storage (T)" means, as appropriate—

(a) the storage of tissues by the holder of a licence pursuant to the provisions of the licence, or

(b) the tissues the subject of such storage;

"relevant storage period (E)", in relation to a relevant storage (E), means—

(a) if applicable, the shorter storage period (E) specified for such storage, or

(b) in any other case, the period specified in *section 41(1)(a)(ii)(I)* or *(II)*, as appropriate (including any such period as extended under *section 41(3)(a)*);

"relevant storage period (G)", in relation to a relevant storage (G), means—

(a) if applicable, the shorter storage period (G) specified for such storage, or

(b) in any other case, the period specified in *section 40(1)(a)(ii)(I)* or *(II)*, as appropriate (including any such period as extended under *section 40(3)(a)*);

"relevant storage period (T)", in relation to a relevant storage (T), means—

(a) if applicable, the shorter storage period (T) specified for such storage, or

(b) in any other case, the period specified in *section 42(1)(a)(ii)(I)* or *(II)*, as appropriate (including any such period as extended under *section 42(3)(a)*);

"relevant storer (E)", in relation to a relevant storage (E), means the holder of the licence undertaking such storage;

"relevant storer (G)", in relation to a relevant storage (G), means the holder of the licence undertaking such storage;

"relevant storer (T)", in relation to a relevant storage (T), means the holder of the licence undertaking such storage;

"satisfied" means satisfied on reasonable grounds;

"*section 18* report" shall be construed in accordance with *section 18*;

"*section 19* consent" shall, subject to *subsection (4)*, be construed in accordance with *section 19*;

"*section 53* application" shall be construed in accordance with *section 53(2)*;

"shorter storage period (E)", in relation to a relevant storage (E), means the shorter period (if any) specified for such storage in a *section 19* consent pursuant to *section 19(2)(d)*;

"shorter storage period (G)", in relation to a relevant storage (G), means the shorter period (if any) specified for such storage in a *section 19* consent pursuant to *section 19(2)(d)*;

"shorter storage period (T)", in relation to a relevant storage (T), means the shorter period (if any) specified for such storage in a *section 19* consent pursuant to *section 19(2)(d)*;

"specified"—

(a) in relation to a form, means specified under *section 151*, and

(b) in relation to a fee, means specified in regulations made under *section 168*;

"specified upper age limit", in relation to a type of AHR treatment, means the upper age limit specified for that type of AHR treatment in regulations made under *section 12*;

"spouse" means a partner to a marriage recognised at a given time by the law of the State as valid;

"stem cell" means an unspecified cell capable of perpetuating itself through cell division and having the potential to give rise to differentiated cells with specialised functions;

"stem cell line" means embryonic stem cells that can be maintained and grown *in vitro* and that display an immortal or indefinite life span;

"supernumerary embryo" means an embryo that was created and stored for use as part of a person's AHR treatment but remains unused following the completion of that treatment;

"supernumerary gamete" means a gamete that was stored for use as part of a person's AHR treatment but remains unused following the completion of that treatment;

"surrogacy" means an agreement between a woman and the intending parents (or, in the case of a single intending parent, that intending parent) under which the woman agrees to attempt to become pregnant, by the use of an egg other than her own, and, if successful, to transfer the parentage of any child born as a result of the pregnancy to the intending parents (or, in the case of a single intending parent, that intending parent);

"surrogacy agreement" means an agreement referred to in the definition of "surrogacy";

"surrogate mother" means, subject to *sections 55(2)* and *91(2)*, a woman referred to in the definition of "surrogacy";

"surviving partner" means the surviving female spouse, female civil partner or female cohabitant of a deceased person at the time of the person's death;

"tissue" means—

(a) human testicular tissue which has been retrieved from the body of a male, or

(b) human ovarian tissue which has been retrieved from the body of a female.

(2) Where a provision of this Act confers a discretion on the AHRRA or any court to revoke or suspend a licence and the holder of the licence holds two or more licences, that discretion may be exercised so as to revoke or suspend, as the case may be, some or all of those licences as the AHRRA or the court, as the case may be, thinks fit in all the circumstances of the case, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly.

(3) A reference in this Act to a licence includes a reference to—

(a) the relevant activity the subject of the licence, and

(b) the conditions attached, or deemed to be attached, to the licence by virtue of *section 156*.

(4) A reference in this Act to a *section 19* consent includes a reference to a replacement of that *section 19* consent by another *section 19* consent effected by a *section 19* revocation and replacement as construed in accordance with *section 19(4)*.

(5) (a) A reference in this Act to a gamete (other than in *section 27(1)*) includes a reference to a supernumerary gamete.

(b) A reference in this Act to an embryo (other than in *section 29(1)*) includes a reference to a supernumerary embryo.

(6) Nothing in this Act shall be construed to prejudice the generality of the Assisted Decision-Making (Capacity) Act 2015.

Regulations, etc.

3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Regulations made under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) Every order under *section 81* or *162* or regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses

4. Any expenses incurred by the Minister or the AHRRA in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys provided by the Oireachtas.

Circuit Court's jurisdiction under this Act

5. (1) Subject to *subsection (2)*, a reference in this Act (other than in *Part 12*) to an application being made to the court shall be construed as a reference to an application being made to the Circuit Court and the Circuit Court shall have jurisdiction to hear and determine proceedings under this Act in relation to any such application.

(2) The Circuit Court for the purposes of *subsection (1)* shall be—

(a) subject to *paragraph (b)*, the Circuit Court for that circuit in which the applicant concerned ordinarily resides or carries on any profession, business or occupation, or

(b) where the applicant concerned neither ordinarily resides nor carries on any profession, business or occupation in the State, the Circuit Court for the Dublin Circuit.

Review of operation of Act

6. (1) The Minister shall, not later than 3 years following the passing of this Act, carry out a review of the operation of this Act, subject to *subsection (2)*.

(2) Where sections of this Act have yet to be commenced within the timeframe set out in *subsection (1)*, these sections shall not be subject to the review under *subsection (1)* but shall be subject to a subsequent review not less than 5 years following the passing of this Act.

PART 2

GENERAL PROVISIONS RELATING TO RELEVANT ACTIVITIES

Definition - *Part 2*

7. In this Part, "AHR information document", in relation to a type of AHR treatment, means the document published on the AHRRA's website pursuant to *section 13(1)* and that relates to that type of AHR treatment.

Application

8. (1) For the purposes of this Act, there shall not be more than two intending parents of a child born as a result of AHR treatment and, in the case of two intending parents, they shall be spouses, civil partners or cohabitants of one another.

(2) Nothing in this Act shall be construed to prejudice the generality of any enactment or rule of law relating to consent to medical treatment.

(3) For the purposes of this Act—

(a) a gamete obtained by the provision of AHR treatment to a person where such person is an intending parent of any child that may be born as a result of the use of the gamete in any further AHR treatment is not a relevant donation (G) in the meanings assigned to the term in the definition of "relevant donation (G)", and

(b) an embryo created, by the provision of AHR treatment, from the gametes of two persons where such persons are the intending parents of any child that may be born as a result of the use of the embryo in any further AHR treatment is not a relevant donation (E) in the meanings assigned to the term in the definition of "relevant donation (E)".

(4) Subject to *section 172(6)*, nothing in this Act shall be construed to prejudice the operation of the Act of 2007 or the Act of 2015.

(5) (a) Subject to *paragraph (b)*, where *section 19(1)(b)* or *(c)*, *27(3)* or *30(2)* applies, the provisions of the Act of 2015 shall, in addition to the provisions of this Act, apply to the use in AHR treatment of the gamete or embryo concerned.

(b) Where, but for this paragraph, there would be an irreconciliation between a provision of the Act of 2015 and a provision of this Act, that irreconciliation shall be decided in favour of the provision of the Act of 2015.

(6) A reference in this Act to a surrogacy, not being a reference to a surrogacy in *section 2* or *55(2)*, *Part 8* or *12* or the long title to this Act, does not include a reference to a surrogacy to which *Part 8* or *12* applies.

(7) A reference in this Act to a surrogate mother, not being a reference to a surrogate mother in *section 2* or *55(2)* or *Part 8* or *12*, does not include a reference to a surrogate mother in so far as she is a surrogate mother under a surrogacy to which *Part 8* or *12* applies.

Prohibition against person providing or undertaking relevant activity except pursuant to licence

9. A person shall not provide or undertake any type of relevant activity except pursuant to a licence held by the person authorising that person to provide or undertake that type of relevant activity.

Prohibition against holder of licence providing or undertaking relevant activity except in accordance with licence and this Act, etc.

10. (1) The holder of a licence shall not provide or undertake the relevant activity the subject of the licence except under and in accordance with the provisions of—

(a) the licence, and

(b) this Act.

(2) A licence shall not authorise the undertaking of ESC research specified in *Schedule 2* and any licence that purports to do so shall be void to the extent that it purports to do so.

(3) Subject to *subsections (4)* and *(5)*, the Minister may by regulations specify, for the purposes of *paragraph 5* of *Schedule 2*, a type of ESC research where he or she is of the opinion that, for ethical reasons, such research should not be undertaken.

(4) A type of ESC research specified in regulations made under *subsection (3)* shall not apply to such research undertaken, but not completed, before such specification unless the regulations expressly state the contrary.

(5) On and after the establishment day, the Minister shall not make regulations under *subsection (3)* except after consultation with the AHRRA.

Prohibition against ESC researcher using relevant donation (ER) for any purpose other than in undertaking ESC research

11. An ESC researcher shall not use a relevant donation (ER) for any purpose other than in the undertaking of ESC research.

Upper age limits for AHR treatment

12. (1) Subject to *subsections (2)* and *(3)*, the Minister may by regulations specify the upper age limit for an AHR treatment specified in the regulations (in this section referred to as the "relevant treatment") in respect of which an AHR treatment provider shall not provide such treatment to a person who has attained that age.

(2) Where the Minister makes regulations under *subsection (1)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following:

(a) the current state of medical evidence as to—

(i) the increase in the number, or the severity, or both, of risks (whether bodily or otherwise), and

(ii) the likelihood of a successful outcome,

associated with providing the relevant treatment to persons by reference to increases in age;

(b) the current state of medical evidence or otherwise as to the increase in the number, or the severity, or both, of adverse social and psychological implications that may arise associated with providing the relevant treatment to persons by reference to increases in age;

(c) in so far as is practicable after considering the nature and purpose of the relevant treatment, what is in the best interests of any child that may be born as a result of such treatment (whether by virtue of such treatment alone or in conjunction with any further AHR treatment);

(d) that the best interests of a child referred to in *paragraph (c)* include at least one of the intending parents (or, in the case of a single intending parent, that intending parent) having objectively, and in all the circumstances of the case, a reasonable expectation of living to parent the child until that child has attained the age of 18 years.

(3) On and after the establishment day, the Minister shall not make regulations under *subsection (1)* except after consultation with the AHRRA.

AHR information document

13. (1) (a) Subject to *sections 14* and *15*, the AHRRA shall, as soon as is practicable after the commencement of this section, prepare and publish on its website a document, for each type of AHR treatment, setting out the basic information that it is satisfied that a person seeking, or potentially seeking, such type of AHR treatment ought to know about such treatment.

(b) Without prejudice to the generality of the reference to "basic information" in *paragraph (a)*, such information should include information about the potential effect of the operation of *section 38*.

(c) The AHRRA shall maintain, and update as required, each AHR information document published on its website.

(2) When an AHR treatment provider is approached, in his or her professional capacity as such provider, by a person seeking, or potentially seeking, an AHR treatment from the provider, the provider shall, as soon as is practicable after being so approached, give, or cause to be given, to the person the AHR information document.

Provisions supplementary to *section 13* - relevant storage (G), relevant storage (E) or relevant storage (T)

14. (1) This section applies without prejudice to the generality of *section 13*.

(2) The AHR information document for a type of AHR treatment to be provided for the purposes of facilitating a relevant storage (G) of a gamete referred to in *section 8(3)(a)* shall inform the intending parent referred to in that section that, when

the relevant storage period (G) expires, the gamete, if it remains unused at the time of such expiration, will be disposed of in accordance with *section 40* unless, before such expiration, the AHRRA grants under *section 40* an extension to the relevant storage period (G).

(3) The AHR information document for a type of AHR treatment to be provided for the purposes of facilitating a relevant storage (E) of an embryo referred to in *section 8(3)(b)* shall inform the intending parents referred to in that section that, when the relevant storage period (E) expires, the embryo, if it remains unused at the time of such expiration, will be disposed of unless, before such expiration, the AHRRA grants under *section 41* an extension to the relevant storage period (E).

(4) The AHR information document for a type of AHR treatment to be provided for the purposes of facilitating a relevant storage (T) for a person shall inform the person that, when the relevant storage period (T) expires, the tissue, if it remains unused at the time of such expiration, will be disposed of unless, before such expiration, the AHRRA grants under *section 42* an extension to the relevant storage period (T).

Provisions supplementary to *section 13* - surrogacy

15. (1) This section applies without prejudice to the generality of *section 13*.

(2) The AHR information document for a type of AHR treatment to be provided pursuant to a surrogacy agreement shall inform the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) involved of the following:

(a) that the surrogate mother will be the mother of any child born as a result of AHR treatment provided pursuant to the agreement;

(b) that the surrogate mother's husband (if any) under a subsisting marriage will not be presumed to be the father of any child born as a result of AHR treatment provided pursuant to the agreement;

(c) that the intending parents (or, in the case of a single intending parent, that intending parent) will not, without a parental order, be the parents (or, in the case of a single intending parent, the parent) of any child born as a result of AHR treatment provided pursuant to the agreement other than in the case of an intending parent who provided the sperm used in such treatment;

(d) where a relevant donation (G) will be used to create the embryo to be transferred to the surrogate mother pursuant to the agreement, the relevant donor (G) will not be a parent of the child;

(e) that the information specified in *section 62(1)* will be recorded in the National Surrogacy Register in respect of—

(i) the surrogate mother,

(ii) the intending parents (or, in the case of a single intending parent, that intending parent),

(iii) any child born as a result of AHR treatment provided pursuant to the agreement, and

(iv) where a relevant donation (G) was used to create the embryo that was transferred pursuant to the agreement, the relevant donor (G);

(f) that any person born as a result of AHR treatment provided pursuant to the agreement may, in accordance with the provisions of *Part 7*—

(i) access the information pertaining to each party to the agreement recorded on the National Surrogacy Register, and

(ii) seek to contact any party to the agreement;

(g) that, where a relevant donation (G) will be used to create the embryo to be transferred to the surrogate mother pursuant to the agreement, the relevant donor (G) is entitled to obtain from the National Surrogacy Register the information specified in *section 70(2)*;

(h) that the surrogate mother has an obligation under *section 62(2)* to give the information specified in that section to the AHR treatment provider;

(i) having regard to the child's right to know his or her origins, that it is desirable that—

(i) the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) keep updated, in accordance with *section 74*, the information in relation to him or her that is recorded on the National Surrogacy Register, and

(ii) the intending parents (or, in the case of a single intending parent, that intending parent) inform the child, at an appropriate age, that he or she was born as a result of AHR treatment provided pursuant to the agreement;

(j) the right of the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) to revoke, or revoke and replace, his or her *section 19* consent.

Provision of AHR treatment

16. An AHR treatment provider shall not provide AHR treatment to a person unless—

(a) subject to sections 9(1)(a) and 11(1)(a) of the Act of 2015 and *sections 39*, *55(1)(b)* and *56(2)*, the person has attained the age of 18 years but has not attained the specified upper age limit (if any), and

(b) the provider is satisfied that, in all the circumstances of the case—

(i) such treatment is necessary to—

(I) enable pregnancy or birth or both,

(II) enable fertility preservation, or

(III) avoid, in accordance with the provisions of *Part 6*, serious disability or illness in a child,

(ii) such treatment does not pose a disproportionate risk to the health of a child that may be born as a result of such treatment, and

(iii) where the person is a woman, pregnancy or birth, following such treatment, does not pose a disproportionate risk to her health.

Safety of children - AHR treatment provider

17. (1) This section shall not apply where *section 54* applies to the relevant person in relation to the surrogacy agreement concerned.

(2) An AHR treatment provider shall not provide AHR treatment to a relevant person unless the provider is satisfied, based on the information available to the provider, that the relevant person, and each other relevant person, does not present a potential significant risk of harm or neglect to—

(a) any child that may be born as a result of such treatment, or

(b) any other child.

(3) (a) Subject to *paragraph (b)*, the AHR treatment provider shall, for the purposes of *subsection (2)*, make a request in writing to each relevant person to complete and submit to the provider within the period specified in the request (being a period reasonable in all the circumstances of the case), a return in the specified form (in this section referred to as a "*section 17* return") attached to the request.

(b) Subject to *paragraph (c)* and *subsection (7)*, the Minister—

(i) shall, as soon as is practicable after the commencement of this subsection, by regulations specify the information, or information falling within a class of information specified in the regulations, that a *section 17* return may require a relevant person, or a relevant person falling within a class of relevant persons specified in the regulations, to provide, and

(ii) may by regulations specify the circumstances (if any) in which such information may be further disclosed by an AHR treatment provider in addition to further disclosures required by law.

(c) Where the Minister makes regulations under *paragraph (b)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following:

(i) that, in determining the information to be specified, the paramount consideration is the safety of any child referred to in *subsection (2)*;

(ii) that the information sought needs to be appropriate and proportionate to satisfying the AHR treatment provider as referred to in *subsection (2)*;

(iii) that any information sought which may reasonably be regarded as sensitive information is protected from any unnecessary further disclosure by the AHR

treatment provider concerned except where such further disclosure is required by law.

(d) The AHRRA shall, in specifying different forms of *section 17* returns, ensure that the forms are consistent with the regulations made under *paragraph (b)*.

(4) Subject to *subsection (5)*, where the AHR treatment provider is not satisfied after having assessed the *section 17* returns concerned, as referred to in *subsection (2)*, the provider shall, as soon as is practicable after the expiration of the period concerned referred to in *subsection (3)(a)*, by notice in the specified form (in this section referred to as a "*section 17* notice") given to each relevant person, state the reasons why the provider is not so satisfied.

(5) For the purposes of *subsection (4)*, the AHR treatment provider may also assess information obtained otherwise than from a relevant person.

(6) An AHR treatment provider shall retain the original or a copy of—

(a) a *section 17* return,

(b) a *section 17* notice,

(c) information referred to in *subsection (5)* which is in writing, and

(d) any note made in writing, by the provider, of information referred to in *subsection (5)* which is not in writing,

for not less than 30 years after receiving the return, issuing the notice, obtaining the information or making the note, as the case may be.

(7) On and after the establishment day, the Minister shall not make regulations under *subsection (3)* except after consultation with the AHRRA.

(8) In this section, "relevant person", in relation to any child that may be born as a result of AHR treatment, means—

(a) in the case of two intending parents, each of the parents,

(b) in the case of a single intending parent, that parent and the parent's spouse, civil partner or cohabitant (if any), and

(c) in the case of a surrogate mother, that mother and her spouse, civil partner or cohabitant (if any).

AHR counselling

18. (1) (a) An AHR treatment provider shall not provide relevant AHR treatment to a person seeking such treatment unless the provider is satisfied that the person and the relevant person have received AHR counselling in relation to such treatment.

(b) In *paragraph (a)*, "relevant AHR treatment" means AHR treatment—

(i) involving the making or the use of—

(I) a relevant donation (E), or

(II) a relevant donation (G),

(ii) involving the provision of PAHR, or

(iii) involving surrogacy.

(2) (a) An AHR treatment provider shall inform any person seeking AHR treatment (not being relevant AHR treatment within the meaning of *subsection (1)*) that the person may, if he or she so wishes, receive AHR counselling as regards such treatment.

(b) The information referred to in *paragraph (a)* shall be in the specified form.

(3) Where an AHR counsellor is providing AHR counselling to two intending parents, he or she shall offer the counselling to the parents individually, together as a couple, or both.

(4) The AHR counsellor shall, as soon as is practicable after he or she has completed the AHR counselling of a person who is seeking to be a surrogate mother, make a report in the specified form (in this Act referred to as a "*section 18* report") as regards such counselling and give a copy of the report to the AHR treatment provider.

(5) (a) The AHR counsellor shall keep the original of the *section 18* report for not less than 30 years.

(b) The AHR treatment provider shall keep the copy of the *section 18* report for not less than 30 years.

(6) (a) Subject to *paragraph (b)*, an AHR treatment provider shall not be, or hold out to be, an AHR counsellor.

(b) *Paragraph (a)* shall not be construed to prevent the AHR treatment provider from having an AHR counsellor as a member of the provider's staff.

(7) In this section, "relevant person", in relation to a person seeking AHR treatment, means, if such person is an intending parent, the other intending parent (if any).

Consent

19. (1) Subject to *subsections (2)* to *(8)* and *section 25*, an AHR treatment provider shall not provide AHR treatment to a person unless—

(a) consent in the specified form (in this Act referred to as a "*section 19* consent") to the provision of such treatment (including every stage of such treatment) has been given by—

(i) the person, and

(ii) each relevant person,

(b) in the case of such treatment involving the use of a gamete in a DAHR procedure provided on or after the establishment day, consent to such use has been given under section 6 or 26(1)(b)(ii), as appropriate, of the Act of 2015, and

(c) in the case of such treatment involving the use of an embryo in a DAHR procedure or further DAHR procedure provided on or after the establishment day, consent to such use has been given under section 14, 16 or 26(2)(b)(ii), as appropriate, of the Act of 2015.

(2) Without prejudice to the generality of *section 151*, an intending parent's *section 19* consent shall—

(a) specify that each intending parent (or, in the case of a single intending parent, that intending parent) has provided his or her consent to the AHR treatment specified in the *section 19* consent,

(b) (i) not have been revoked when the AHR treatment is provided, and

(ii) where the *section 19* consent has been revoked and replaced in accordance with this section (whether once or more than once), specify that the AHR treatment is provided in accordance with the last such replacement of such consent,

(c) specify the action to be taken in relation to a relevant storage (G), relevant storage (E) or relevant storage (T) if an intending parent dies or subsequently lacks capacity to make a decision in that regard where—

(i) the gametes concerned are their gametes,

(ii) the embryos concerned were created from their gametes or the gamete from one of them,

(iii) the embryos concerned were created for use in the provision of AHR treatment to one of the intending parents (or, in the case of a single intending parent, that intending parent), or

(iv) the tissues concerned are their tissues,

(d) specify that each intending parent (or, in the case of a single intending parent, that intending parent) may, in relation to a relevant storage (G), relevant storage (E) or relevant storage (T), specify in his or her *section 19* consent a shorter storage period than the period referred to in *paragraph (b)* of the definition of "relevant storage period (G)", *paragraph (b)* of the definition of "relevant storage period (E)" or *paragraph (b)* of the definition of "relevant storage period (T)", as appropriate, where—

(i) the gametes concerned are their gametes,

(ii) the embryos concerned were created from their gametes or the gametes from one of them,

(iii) the embryos concerned were created for use in the provision of AHR treatment to one of the intending parents (or, in the case of a single intending parent, that intending parent), or

(iv) the tissues concerned are their tissues,

(e) in the case of two intending parents, specify what to do in the event of *post factum* differences of opinion or where changes of circumstances occur, and

(f) be sought again if two or more years have elapsed from the giving of the *section 19* consent (including any *section 19* consent which arises from the operation of this paragraph) without the provider having provided the AHR treatment the subject of the consent.

(3) A person's *section 19* consent shall not be considered valid unless—

(a) it was given voluntarily,

(b) the person had the capacity to give such consent at the time it was given, and

(c) *section 18* has been complied with.

(4) (a) Subject to *paragraph (b)* and *subsections (5)* to *(8)*, a person who has given a *section 19* consent may, while he or she has the capacity to do so, revoke in the specified form (in this section referred to as a "*section 19* revocation"), or revoke and replace in the specified form (in this section referred to as a "*section 19* revocation and replacement"), his or her *section 19* consent before the AHR treatment the subject of the consent has been provided.

(b) A *section 19* revocation, or *section 19* revocation and replacement, by a person of his or her *section 19* consent does not take effect until the person gives the revocation, or revocation and replacement, as the case may be, to the AHR treatment provider concerned.

(c) Where *section 27(3)* applies in the case of a relevant donation (G), the *section 19* revocation of the *section 19* consent for the use of such donation in the provision of AHR treatment shall be accompanied by a revocation under section 8 of the Act of 2015 of the consent under section 6 of that Act on which such *section 19* consent is founded by virtue of *section 27(3)(c)*.

(d) Where *section 30(2)* applies in the case of a relevant donation (E), the *section 19* revocation of the *section 19* consent for the use of such donation in the provision of AHR treatment shall be accompanied by a revocation under section 18 of the Act of 2015 of the consent under section 14 or 16, as appropriate, of that Act on which such *section 19* consent is founded by virtue of *section 30(2)(c)*.

(5) (a) The surrogate mother or intending parent may, while he or she has the capacity to do so, effect a *section 19* revocation, or *section 19* revocation and replacement, at any stage prior to the transfer of the embryo pursuant to the surrogacy agreement.

(b) Where a relevant donation (G) is to be used to create the embryo to be transferred pursuant to the surrogacy agreement, the relevant donor (G) may, while he or she has the capacity to do so, effect a *section 19* revocation, or *section 19* revocation and replacement, at any stage before the formation of the embryo.

(6) Where a relevant donation (ER) is to be used in the undertaking of ESC research, the relevant donor (ER) may, while he or she has the capacity to do so, effect a *section 19* revocation, or *section 19* revocation and replacement, at any time before the relevant donation (ER) is so used.

(7) (a) Where *section 30(1)(b)* applies and only one of the two relevant donors (E) effects a *section 19* revocation, the unused relevant donation (E) concerned shall not be used to provide AHR treatment to a person.

(b) Where *section 31(b)* applies and only one of the two relevant donors (ER) effects a *section 19* revocation referred to in *subsection (6)*, the unused relevant donation (ER) referred to in that subsection shall not be used for ESC research.

(c) Where *section 30(1)(b)* applies and only one of the two relevant donors (E) effects a *section 19* revocation and replacement, *section 21(4)* shall, with all necessary modifications, apply to that *section 19* revocation and replacement and the *section 19* consent of the other relevant donor (E).

(d) Where *section 31(b)* applies and both relevant donors (E) effect a *section 19* revocation and replacement but there is a disagreement between the provisions of the two *section 19* revocation and replacements, *section 21(4)* shall, with all necessary modification, apply to the *section 19* revocation and replacements.

(e) Where *section 31(b)* applies and only one of the two relevant donors (ER) effects a *section 19* revocation and replacement referred to in *subsection (6)*, *section 21(5)* shall, with all necessary modifications, apply to that *section 19* revocation and replacement and the *section 19* consent of the other relevant donor (ER).

(f) Where *section 31(b)* applies and both relevant donors (ER) effect a *section 19* revocation and replacement referred to in *subsection (6)* but there is a disagreement between the provisions of the two *section 19* revocation and replacements, *section 21(5)* shall, with all necessary modifications, apply to the *section 19* revocation and replacements.

(8) Nothing in this section shall be construed to prevent a person (howsoever described) effecting a *section 19* revocation from making, as regards any unused gametes or embryos (howsoever described) referred to in this section that the *section 19* revocation relates to and in accordance with this Act, a relevant donation (G), a relevant donation (E) or relevant donation (ER), as appropriate, of such gametes or embryos.

(9) Without prejudice to the generality of *sections 40(3)*, *41(3)* and *42(3)*, it is hereby declared that *subsection (2)* as read with *subsection (4)(a)* shall not be construed to enable—

(a) any combination of shorter storage periods (G) applicable to the same relevant storage (G) to exceed, in total, the period specified in *paragraph (b)* of the definition of "relevant storage period (G)",

(b) any combination of shorter storage periods (E) applicable to the same relevant storage (E) to exceed, in total, the period specified in *paragraph (b)* of the definition of "relevant storage period (E)", or

(c) any combination of shorter storage periods (T) applicable to the same relevant storage period (T) to exceed, in total, the period specified in *paragraph (b)* of the definition of "relevant storage period (T)".

(10) The AHR treatment provider shall—

(a) retain the original of each *section 19* consent, *section 19* revocation, and *section 19* revocation and replacement, given to the provider under this section, and

(b) ensure that a copy of each *section 19* consent, *section 19* revocation, and *section 19* revocation and replacement, is given to the person who effected the *section 19* consent, *section 19* revocation, or *section 19* revocation and replacement, as the case may be.

(11) In this section, "relevant person", in relation to a person seeking AHR treatment, means, if such person is an intending parent, the other intending parent (if any).

Provisions supplementary to *section 19* - relevant donation (G)

20. (1) This section applies without prejudice to the generality of *section 151*.

(2) The specified form of a *section 19* consent shall, in the case of a relevant donation (G), require the relevant donor (G) to—

(a) confirm that consent under section 6 of the Act of 2015 has been given by him or her as regards such donation,

(b) specify the AHR treatment for which the relevant donation (G) may be used,

(c) specify that he or she has been given the opportunity to reduce the number of families referred to in *section 33(1)* in the case of the relevant donation (G) and—

(i) has so reduced that number, or

(ii) has declined that opportunity,

and

(d) subject to *subsection (3)*, state whether or not he or she consents to the relevant donation (G), or an embryo created from such donation, being used—

(i) by an AHR treatment provider, other than the AHR treatment provider to whom such donation is proposed to be made, in providing AHR treatment to a person, or

(ii) by a person who is the equivalent, in another jurisdiction, of an AHR treatment provider (and noting that the law in that other jurisdiction may not be the same as the law in the State on AHR treatment) in providing AHR treatment to a person.

(3) A statement referred to in *subsection (2)(d)* is only relevant to an embryo referred to in that subsection where the intending parents (or, in the case of a single intending parent, that intending parent) for whom the embryo was created wish (or wishes) to use the embryo to make a relevant donation (E).

Provisions supplementary to *section 19* - relevant donation (E) and relevant donation (ER)

21. (1) This section applies without prejudice to the generality of *section 151*.

(2) Subject to *subsection (4)*, the specified form of a *section 19* consent shall, in the case of a relevant donation (E), require the relevant donor (E) to—

(a) confirm that consent under section 14 or 16, as appropriate, of the Act of 2015 has been given by him or her as regards such donation,

(b) specify the AHR treatment for which the relevant donation (E) may be used,

(c) specify that he or she has been given the opportunity to reduce the number of families referred to in *section 33* in the case of the relevant donation (E) and—

(i) has so reduced that number, or

(ii) has declined that opportunity,

and

(d) state whether or not he or she consents to the relevant donation (E) being used—

(i) by an AHR treatment provider, other than the AHR treatment provider to whom the relevant donation (E) is proposed to be made, in providing AHR treatment to a person, or

(ii) by a person who is the equivalent, in another jurisdiction, of an AHR treatment provider (and noting that the law in that other jurisdiction relating to AHR treatment may not be the same as the law in the State on AHR treatment) in providing AHR treatment to a person.

(3) Subject to *subsection (5)*, the specified form of a *section 19* consent shall, in the case of a relevant donation (ER), require the relevant donor (ER) to—

(a) confirm that he or she has received the AHR information document concerned,

(b) specify that he or she has been given the opportunity to select the types of ESC research that the relevant donation (ER) may be used for and—

(i) has so selected the types, or

(ii) has declined that opportunity,

and

(c) state whether or not he or she consents to the relevant donation (ER) being used—

(i) for research in an ESC research facility in the State other than the ESC research facility at which the donation is proposed to be made, or

(ii) for research in a research facility in another jurisdiction (and noting that the law in that jurisdiction relating to ESC research may not be the same as the law in the State relating to ESC research).

(4) (a) Subject to *paragraphs (b)* and *(c),* where *section 30(1)(b)* applies and there is any disagreement between the *section 19* consents of the two relevant donors (E), the

provisions of those consents the subject of that disagreement shall not, to the extent of that disagreement, be treated as part of those consents.

(b) Subject to *paragraph (c)*, where the disagreement referred to in *paragraph (a)* relates to *subsection (2)(c)*, the lower of the numbers concerned shall be treated as part of the *section 19* consents and the higher of those numbers shall not be treated as part of those consents.

(c) An AHR treatment provider may reject a relevant donation (E) on the ground of there being one or more than one disagreement referred to in *paragraph (a)*.

(5) (a) Subject to *paragraph (b)*, where *section 31(b)* applies and there is any disagreement between the *section 19* consents of the two relevant donors (ER), the provisions of those consents the subject of the disagreement shall not, to the extent of that disagreement, be treated as part of those consents.

(b) An ESC researcher may reject a relevant donation (ER) on the ground of there being one or more than one disagreement referred to in *paragraph (a).*

Provisions supplementary to *section 19* - relevant storage (G), relevant storage (E) or relevant storage (T) in case of two intending parents

22. (1) This section applies without prejudice to the generality of *section 151*.

(2) The specified form of a *section 19* consent shall, in the case of two intending parents who as a couple wish to effect a relevant storage (G) of their own gametes, a relevant storage (E) of their own embryos, or a relevant storage (T) of their own tissues, or any combination thereof, for use in their AHR treatment only, require each of the intending parents to separately—

(a) confirm that he or she has received the AHR information document concerned,

(b) subject to *sections 40*, *41* and *42*, specify the maximum period for which the gametes, embryos or tissues, or any combination thereof, may be stored,

(c) specify what should be done with the unused gametes, embryos or tissues, or any combination thereof, if he or she subsequently—

(i) lacks the capacity to make a decision in that regard, or

(ii) dies,

and

(d) specify what should be done with the unused gametes, embryos or tissues, or any combination thereof, in the case of *post factum* differences of opinion or changes of circumstances.

Provisions supplementary to *section 19* - PAHR

23. (1) This section applies without prejudice to the generality of *section 151*.

(2) The specified form of a *section 19* consent shall, in the case of PAHR, require the person (D) to—

(a) confirm that he or she has received the AHR information document concerned,

(b) confirm that he or she has received the AHR counselling required under *section 18*,

(c) consent to his sperm, or an embryo created using his or her gamete, being used, after his or her death, in PAHR involving his or her surviving partner as identified in the consent,

(d) if applicable, consent to the creation, subsequent to his death, of an embryo, for use in the provision of PAHR, using the retrieval and use of his sperm after his death,

(e) specify that he or she understands that he or she shall be a parent of any child born as a result of PAHR, and

(f) specify that he or she has expressed his or her own will and preference in relation to what should be done with any supernumerary gametes or supernumerary embryos that are not used in the provision of PAHR.

(3) The specified form of a *section 19* consent shall, in the case of PAHR, require the surviving partner to—

(a) confirm that she has received the AHR information document concerned,

(b) confirm that she has received the AHR counselling required under *section 18*,

(c) specify that she has consented to PAHR,

(d) specify that she understands that she and the deceased person shall be the parents of any child born as a result of PAHR, and

(e) specify that she has expressed her own will and preference in relation to what should be done with any supernumerary gametes or supernumerary embryos that are not used in the provision of PAHR.

Two intending parents and *section 19* revocation

24. Where *section 22* applies and only one of the intending parents effects a *section 19* revocation of the *section 19* consent as regards the relevant storage (G), relevant storage (E) or relevant storage (T) concerned—

(a) that revocation shall be treated as a *section 19* revocation of the other intending parent's *section 19* consent to such storage, and

(b) the relevant storer (G), relevant storer (E) or relevant storer (T), as appropriate, shall give effect to what was stated in the two *section 19* consents as regards the information required by *section 22(2)(d)*.

Provisions supplementary to *section 19* - surrogacy

25. (1) This section applies without prejudice to the generality of *section 151*.

(2) The specified form of a *section 19* consent shall, in the case of a surrogacy agreement, require the intending parents (or, in the case of a single intending parent, that intending parent) and the surrogate mother to—

(a) confirm that he or she has received the AHR information document concerned,

(b) confirm that he or she has received the AHR counselling required under *section 18*,

(c) confirm that he or she has received the legal advice required by *section 61*,

(d) consent to the recording of information required under *section 62*, and

(e) confirm that he or she understands that a person born as a result of AHR treatment provided pursuant to the surrogacy agreement may, in accordance with the provisions of *Part 7*—

(i) access the information specified in *section 62(1)*, or

(ii) seek to contact any or all parties to the surrogacy agreement.

(3) The specified form of a *section 19* consent shall, in the case of a relevant donation (G) proposed to be used to create an embryo to be transferred pursuant to a surrogacy agreement, require the relevant donor (G) to—

(a) consent to the recording of information required under *section 62(1)*, and

(b) confirm that he or she understands that, under the law of the State—

(i) he or she shall not be a parent of any child born as a result of such use of such donation,

(ii) the information specified in *section 62(1)* in relation to him or her shall be recorded on the National Surrogacy Register,

(iii) the child, when he or she becomes an adult (AHR), may access the information specified in *section 72(2)* and seek to contact the donor,

(iv) the information that the donor is entitled to obtain from the National Surrogacy Register is restricted to the information specified in *section 70(2)*,

(v) having regard to the child's right to know his or her origins, it is desirable that the donor keep updated, in accordance with *section 74*, the information in relation to him or her that is recorded on the National Surrogacy Register, and

(vi) he or she has the right, in accordance with *section 19(4)*, to revoke, or revoke and replace, such consent.

Embryo transfer

26. (1) An AHR treatment provider providing AHR treatment to a woman which involves the transfer of an embryo to that woman, being a woman who has a favourable prognosis for the successful outcome of such transfer in a treatment cycle, shall offer the woman only a single embryo for such transfer during such cycle.

(2) An AHR treatment provider providing AHR treatment to a woman which involves the transfer of an embryo to that woman, being a woman who does not have a favourable prognosis for the successful outcome of such transfer in a treatment cycle, shall not offer the woman more than two embryos for such transfer during such cycle.

PART 3

Gamete and embryo donation for use in AHR treatment and embryo donation for use in ESC research

Gamete donation for use in AHR treatment

27. (1) A person may donate his or her gametes to an AHR treatment provider, for use in the provision of AHR treatment, if the person has not attained the specified upper age limit (if any) at the time of such donation.

(2) A person may, before the expiration of the relevant storage period (G), donate his or her supernumerary gametes to an AHR treatment provider, for use in the provision of AHR treatment, where—

(a) the *section 19* consent to donate the gametes is given separately from, and subsequent to, the completion of the AHR treatment referred to in the definition of "supernumerary gamete", and

(b) the person has not attained the specified upper age limit (if any) at the time the gamete concerned was obtained by the provision of AHR treatment to that person.

(3) Where a person has, before the establishment day, given consent under section 6 of the Act of 2015 to the use in a DAHR procedure of a gamete provided by him or her—

(a) the gamete shall, for all purposes, be treated as a donation of a gamete under *subsection (1)* or *(2)*, as appropriate, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly,

(b) the person shall, for all purposes, be treated as the donor under this section of the gamete, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly, and

(c) that consent shall, for all purposes, be treated as the *section 19* consent of the person as to the use of the gamete in the provision of AHR treatment, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly.

Provisions supplementary to *section 27*

28. An AHR treatment provider shall not accept a donation of gametes for use in providing AHR treatment other than a relevant donation (G).

Prohibition against donating embryos, etc.

29. (1) A person shall not donate an embryo, other than a supernumerary embryo, to any other person.

(2) Subject to *sections 30* and *31*, a person shall not donate a supernumerary embryo to any other person.

Embryo donation for use in AHR treatment

30. (1) A former intending parent may, before the expiration of the relevant storage period (E), donate his or her supernumerary embryo to an AHR treatment provider, for use in the provision of AHR treatment, where—

(a) the *section 19* consent of such parent to donate the supernumerary embryo is obtained separately from, and subsequent to, the completion of the AHR treatment referred to in the definition of "supernumerary embryo",

(b) such parent is part of a couple of former intending parents, the other former intending parent also gives his or her *section 19* consent to the donation separately from, and subsequent to, the completion of the AHR treatment referred to in the definition of "supernumerary embryo", and

(c) the gametes used to create the embryo were provided by persons who had not attained the specified upper age limit (if any) at the time the gametes concerned were obtained by the provision of AHR treatment to those persons.

(2) Where a person has, before the establishment day, given consent under section 14 or 16 of the Act of 2015 to the use of the embryo concerned in a DAHR procedure or further DAHR procedure—

(a) the embryo shall, for all purposes, be treated as a donation of an embryo under *subsection (1)*, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly,

(b) the person shall, for all purposes, be treated as the donor of the embryo, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly, and

(c) that consent shall, for all purposes, be treated as the *section 19* consent of the person as to the use of the embryo in the provision of AHR treatment, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly.

Embryo donation for use in ESC research

31. A former intending parent may, before the expiration of the relevant storage period (E), donate his or her supernumerary embryo to an ESC researcher, for use in the undertaking of ESC research, where—

(a) such parent's *section 19* consent to the donation is given separately from, and subsequent to, the completion of the AHR treatment referred to in the definition of "supernumerary embryo", and

(b) such parent is part of a couple of former intending parents, the other former intending parent also gives his or her *section 19* consent to the donation separately from, and subsequent to, the completion of the AHR treatment referred to in the definition of "supernumerary embryo".

Provisions supplementary to *sections 30* and *31*

32. (1) An AHR treatment provider shall not accept a donation of an embryo for use in the provision of AHR treatment other than a relevant donation (E).

(2) An ESC researcher shall not accept a donation of an embryo for use in the undertaking of ESC research other than a relevant donation (ER).

Limits on use of relevant donation (G) and relevant donation (E)

33. (1) (a) Subject to *sections 20(2)(c)* and *21(2)(c)*, *paragraph (b)* and *subsection (2)*, an AHR treatment provider shall not use—

(i) one or more than one relevant donation (G) (including an embryo created from the donation) from the same relevant donor (G) in providing AHR treatment if to do so may result in children being born to more than four families from such donation, or

(ii) one or more than one relevant donation (E) from the same relevant donor (E) in providing AHR treatment if to do so may result in children being born to more than four families from such donation.

(b) Subject to *sections 20(2)(c)* and *21(2)(c)* and *subsection (2)*, where AHR treatment by an AHR treatment provider involves the use of—

(i) one or more than one relevant donation (G) from the same relevant donor (G) who is a man, and

(ii) one or more than one relevant donation (G) from the same relevant donor (G) who is a woman,

the provider shall not use that combination of donations (including an embryo created from such combination) in providing AHR treatment if to do so may result in children being born to more than four families from such combination.

(2) *Subsection (1)* shall not be construed to prevent an AHR treatment provider from providing AHR treatment to a person for the purpose of producing one or more than one sibling to a child of a family which is one of the four families referred to in *subsection (1)(a)* or *(b)*.

(3) An AHR treatment provider shall not provide AHR treatment to a person which, as part of the same procedure, involves—

(a) the use of sperm from more than one male,

(b) the use of eggs from more than one female, or

(c) the use of two or more embryos (whether the embryos are created from relevant donations (G) or are relevant donations (E)) where the gametes creating the embryos were not provided by the same persons.

(4) (a) Subject to *Part 5*, where a relevant donor (G) has died and an AHR treatment provider receives notice in writing of such death, the provider shall not, on and after the receipt of such notice, use the relevant donation (G) (including any embryo created from such donation) in providing AHR treatment.

(b) Subject to *Part 5*, where a relevant donor (E) has died and an AHR treatment provider receives notice in writing of such death, the provider shall not, on and after the receipt of such notice, use the relevant donation (E) in providing AHR treatment.

Prohibited AHR treatment based on genetic grounds

34. (1) An AHR treatment provider shall not use a relevant donation (G) to create an embryo from—

(a) that donation, and

(b) the gamete of a genetic family member of the relevant donor (G) of such donation.

(2) In this section, "genetic family member", in relation to the family of the relevant donor (G), means a parent, son, daughter, sibling (including half-brother or half-sister), grandparent, grandchild, aunt, uncle, nephew or niece of such donor, being a member of such family from his or her birth.

Prohibition of commercial relevant donation

35. (1) Subject to *subsection (2)*, a person shall not—

(a) receive or agree to receive any payment or other reward in consideration of the making of a relevant donation,

(b) offer, make or give or agree to offer, make or give any payment or other reward in consideration of the making of a relevant donation, or

(c) receive, make or give or agree to receive, make or give any payment or other reward in consideration of facilitating the making of a relevant donation.

(2) Any reference to payment or other reward in *subsection (1)* shall not include the reasonable expenses of a relevant donor as construed in accordance with *section 36*.

(3) In this section—

"relevant donation" means—

(a) a relevant donation (G),

(b) a relevant donation (E), or

(c) a relevant donation (ER);

"relevant donor", in relation to a relevant donation, means whomsoever of the following who made the donation:

(a) the relevant donor (G);

(b) the relevant donor (E);

(c) the relevant donor (ER).

Reasonable expenses of relevant donor

36. (1) A payment or other reward may be made to a relevant donor in order to reimburse the relevant donor for the reasonable expenses incurred by him or her in the making of the relevant donation.

(2) An expense is reasonable under *subsection (1)* only if—

(a) the expense is actually incurred, and

(b) the amount of the expense can be verified by receipts or other documentation.

(3) In this section—

"reasonable expenses", in relation to a relevant donor and the relevant donation, means the travel, medical, AHR counselling and legal expenses, and any net loss of income, incurred by the relevant donor in the making of the relevant donation;

"relevant donation" means—

(a) a relevant donation (G),

(b) a relevant donation (E), or

(c) a relevant donation (ER);

"relevant donor", in relation to a relevant donation, means whomsoever of the following who made the donation:

(a) the relevant donor (G);

(b) the relevant donor (E);

(c) the relevant donor (ER).

Screening and evaluation of potential relevant donor (G) or relevant donor (E)

37. (1) The AHR treatment provider shall ensure that the potential relevant donor (G) or relevant donor (E) has undergone the testing required under the Regulations of 2006 before the relevant donation (G) or relevant donation (E), as the case may be, is made.

(2) Where the results of the testing referred to in *subsection (1)* undergone by the potential relevant donor (G) or relevant donor (E) are that the potential donation (G) or relevant donation (E), as the case may be, does not meet the standards of quality and safety set out by the Regulations of 2006, the AHR treatment provider shall, as soon as is practicable after obtaining those results, give such donor a notice in the specified form refusing to accept such donation.

Disclosing medical information about certain persons

38. (1) A registered medical practitioner may make a request in the specified form (in this section referred to as a "*section 38* request") of an AHR treatment provider for the provider to give to the practitioner medical information about a relevant person where, in the opinion of the practitioner, such information is necessary—

(a) to avoid an imminent and serious risk to the health of the relevant person or another person, or

(b) to enable the practitioner to provide medical advice to the relevant person or another person regarding the existence of a genetic or hereditary condition that may be harmful to the relevant person or another person or the children (including future children) of the relevant person or other person.

(2) The AHR treatment provider shall, as soon as is practicable after the provider receives a *section 38* request, comply with the request by giving, without identifying the relevant person concerned, such medical information sought by the request as is within the provider's power, possession or procurement to the registered medical practitioner who made the request.

(3) The consent of the relevant person, or other person referred to in *subsection (1)(a)* or *(b)*, the subject of a *section 38* request is not required for—

(a) the making of the request, or

(b) compliance with the request.

(4) In this section—

"registered medical practitioner" includes a medical practitioner who is the equivalent, in another jurisdiction, of a registered medical practitioner;

"relevant person" means—

(a) a relevant donor (G),

(b) a relevant donor (E),

(c) a child (AHR), or

(d) an adult (AHR).

PART 4

Storage of gametes, embryos and tissues

AHR treatment provided to certain children

39. (1) An AHR treatment provider may provide AHR treatment to a child for the purposes of obtaining the child's gametes for a relevant storage (G) or the child's tissues for a relevant storage (T) where—

(a) an appropriate medical specialist has stated in the specified form that such child is due to undergo medical treatment which, in the opinion of the specialist—

(i) is likely to cause a significant and irreversible impairment to the child's fertility, and

(ii) such storage is in the child's best interests, including, without prejudice to the generality of the foregoing, in respect of having objectively, and in all the circumstances of the case, a reasonable expectation of the child being in a position to use the relevant storage (G) or the relevant storage (T), as the case may be, after the child attains the age of 18 years,

and

(b) the relevant person gives the *section 19* consent that would otherwise be required to be given by such child for such storage if the child had attained the age of 18 years at the time of such treatment.

(2) Where a relevant child the subject of a relevant storage (G) or a relevant storage (T) referred to in *subsection (1)* attains the age of 18 years, the relevant *section 19* consent shall, on and after that attainment, be deemed to be the *section 19* consent of that child and not the *section 19* consent of the relevant person concerned, and the other provisions of this Act shall, with all necessary modifications, be construed accordingly.

(3) Subject to *Part 5*, where a relevant child the subject of a relevant storage (G) or a relevant storage (T) referred to in *subsection (1)* dies, the relevant storer (G) or relevant storer (T), as the case may be, shall, as soon as is practicable after the provider receives notice in writing of such death, dispose of such storage.

(4) In this section—

"relevant child" means a child referred to in *subsection (1)*;

"relevant person", in relation to a relevant child, means the parent or parents, or the guardian or guardians, or any combination thereof, who consented to the medical treatment referred to in *subsection (1)* that the child will undergo;

"relevant *section 19* consent" means the *section 19* consent referred to in *subsection (1)*.

Disposal of relevant storage (G)

40. (1) (a) Subject to *subsections (2)* and *(3)*, the relevant storer (G) of a relevant storage (G) shall dispose of such storage as soon as is practicable after—

(i) if applicable, the shorter storage period (G) has elapsed, or

(ii) in any other case—

(I) the period specified for the purposes of this clause in regulations made under *paragraph (b)* has elapsed, or

(II) where no such period stands so specified, the period of 10 years has elapsed from the date on which such storage was commenced.

(b) Subject to *paragraphs (c)* and *(d)*, the Minister may make regulations to specify a period for the purposes of *clause (I)* of *subparagraph (ii)* of *paragraph (a)*.

(c) Where the Minister makes regulations under *paragraph (b)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following:

(i) the current state of medical evidence as to the viability of the use of gametes in AHR treatment by reference to the length of the period for which the gametes were stored;

(ii) where relevant, the age of the person for whom the gametes were stored for future use in the provision of the AHR treatment to that person;

(iii) where relevant, the ages of the intending parents (or, in the case of a single intending parent, the age of that parent) of any child that may be born as a result of the future use in the provision of AHR treatment of gametes that were stored for such use.

(d) On and after the establishment day, the Minister shall not make regulations under *paragraph (b)* except after consultation with the AHRRA.

(2) Subject to *subsection (8)*, an eligible person may make an application in the specified form (in this section referred to as a "*section 40* application"), before the expiration of the relevant storage period (G) for the relevant storage (G) the subject of the application where such period falls within *paragraph (b)* of the definition of "relevant storage period (G)", to the AHRRA for the AHRRA to grant an extension to such period.

(3) Subject to *subsection (6)*, the AHRRA shall determine a *section 40* application—

(a) where it is satisfied that, in all the circumstances of the case, there are reasonable grounds for granting the extension sought by the application (or part only of such extension), by notice in writing given to the applicant and the relevant storer (G), granting such extension (or, as the case may be, part only of such extension), or

(b) in any other case, by notice in writing given to the applicant, refusing such extension.

(4) Where the AHRRA under *subsection (3)*—

(a) grants part only of the extension sought to the relevant storage period (G) for a relevant storage (G), or

(b) refuses to grant any such extension,

it shall, in the notice concerned referred to in that subsection, state its reasons for such partial grant or refusal, as the case may be.

(5) The relevant storer (G) shall, not less than six months before the expiration of the relevant storage period (G) for a relevant storage (G), make reasonable efforts to give a notice in the specified form to an eligible person—

(a) advising such person (and without prejudice to the generality of *section 151*) of the date on which such period ends, and

(b) to which is attached a statement as to the effect of this section.

(6) (a) *Paragraph (b)* applies where the AHRRA is minded to determine a *section 40* application by—

(i) granting part only of the extension sought to the relevant storage period (G) for the relevant storage (G) the subject of the application, or

(ii) refusing to grant any such extension.

(b) The AHRRA shall give a notice in writing to the applicant stating—

(i) how the AHRRA is minded to determine the application as specified in *paragraph (a)* and setting out the AHRRA's reasons why it is so minded, and

(ii) that the applicant may, if the applicant wishes to do so, within the period specified in the notice (being a period reasonable in all the circumstances of the case) provide, in view of those reasons only, supplementary material in the specified form to the AHRRA for the AHRRA's further consideration before making a determination under *subsection (3)* following the expiration of that period.

(7) For the avoidance of doubt, it is hereby declared that *subsection (6)* only applies once to the same *section 40* application.

(8) Where a combination of shorter storage periods (G) referred to in *section 19(9)(a)* applicable to the same relevant storage (G) results in the last shorter storage period (G) of that combination taking the combined periods up to the period specified in *paragraph (b)* of the definition of "relevant storage period (G)", *subsections (2)* to *(7)* shall, with all necessary modifications, apply to the period the subject of that last shorter storage period (G) as they apply to a period which falls within *paragraph (b)* of the definition of "relevant storage period (G)".

(9) (a) Where there has been a failure to make one or more than one payment to the relevant storer (G) of a relevant storage (G) for such storage, the storer may, by notice in writing (and to which is attached a copy of this subsection) given to the person who, under the terms and conditions on which the storage was made, is required to make such payment—

(i) request the person to make the payment, and

(ii) advise the person to read the copy of this subsection attached to the notice as to the consequences of continuing to fail to make the payment.

(b) Subject to *paragraph (c)*, the relevant storer (G) may dispose of the relevant storage concerned where 12 months have elapsed from the date of issue of the

notice concerned under *paragraph (a)* without the payment the subject of the notice having been made.

(c) Where *section 39* applies, the relevant storer (G) may not exercise the power under *paragraph (b)* except with the consent of the AHRRA.

(10) In this section—

"eligible person", in relation to a relevant storage (G), means—

(a) subject to *paragraph (b)*, the person for whom the gametes the subject of such storage are being stored, or

(b) where *section 39* applies and the child whose gametes are the subject of such storage has not attained the age of 18 years, the relevant person (within the meaning of *section 39(4)*) who gave the *section 19* consent concerned referred to in *section 39(1)*;

"extension" includes further extension.

Disposal of relevant storage (E)

41. (1) (a) Subject to *subsections (2)* and *(3)*, the relevant storer (E) of a relevant storage (E) shall dispose of such storage as soon as is practicable after—

(i) if applicable, the shorter storage period (E) has elapsed, or

(ii) in any other case—

(I) the period specified for the purposes of this clause in regulations made under *paragraph (b)* has elapsed, or

(II) where no such period stands so specified, the period of 10 years has elapsed from the date on which such storage was commenced.

(b) Subject to *paragraphs (c)* and *(d)*, the Minister may make regulations to specify a period for the purposes of *clause (I)* of *subparagraph (ii)* of *paragraph (a)*.

(c) Where the Minister makes regulations under *paragraph (b)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following:

(i) the current state of medical evidence as to the viability of the use of embryos in AHR treatment by reference to the length of the period for which the embryos were stored;

(ii) where relevant, the age of the woman for whom the embryo was stored for future use in the provision of AHR treatment to that woman;

(iii) where relevant, the ages of the intending parents (or, in the case of a single intending parent, the age of that parent) of any child that may be born as a result of the future use in the provision of AHR treatment of embryos that were stored for such use.

(d) On and after the establishment day, the Minister shall not make regulations under *paragraph (b)* except after consultation with the AHRRA.

(2) Subject to *subsection (8)*, an eligible person may make an application in the specified form (in this section referred to as a "*section 41* application"), before the expiration of the relevant storage period (E) for the relevant storage (E) the subject of the application where such period falls within *paragraph (b)* of the definition of "relevant storage period (E)", to the AHRRA for the AHRRA to grant an extension to such period.

(3) Subject to *subsection (6)*, the AHRRA shall determine a *section 41* application by—

(a) where it is satisfied that, in all the circumstances of the case, there are reasonable grounds for granting the extension sought by the application (or part only of such extension), by notice in writing given to the applicant and the relevant storer (E), granting such extension (or, as the case may be, part only of such extension), or

(b) in any other case, by notice in writing given to the applicant, refusing to grant such extension.

(4) Where the AHRRA under *subsection (3)*—

(a) grants part only of the extension sought to the relevant storage period (E) for a relevant storage (E), or

(b) refuses to grant any such extension,

it shall, in the notice concerned referred to in that subsection, state its reasons for such partial grant or refusal, as the case may be.

(5) The relevant storer (E) shall, not less than six months before the expiration of the relevant storage period (E) for a relevant storage (E), make reasonable efforts to give a notice in the specified form to an eligible person—

(a) advising such person (and without prejudice to the generality of *section 151*) of the date on which such period ends, and

(b) to which is attached a statement as to the effect of this section.

(6) (a) *Paragraph (b)* applies where the AHRRA is minded to determine a *section 41* application by—

(i) granting part only of the extension sought to the relevant storage period (E) for a relevant storage (E), or

(ii) refusing to grant any such extension.

(b) The AHRRA shall give a notice in writing to the applicant stating—

(i) how the AHRRA is minded to determine the application as specified in *paragraph (a)* and setting out the AHRRA's reasons why it is so minded, and

(ii) that the applicant may, if the applicant wishes to do so, within the period specified in the notice (being a period reasonable in all the circumstances of the case) provide, in view of those reasons only, supplementary material in

the specified form to the AHRRA for the AHRRA's further consideration before making a determination under *subsection (3)* following the expiration of that period.

(7) For the avoidance of doubt, it is hereby declared that *subsection (6)* only applies once to the same *section 41* application.

(8) Where a combination of shorter storage periods (E) referred to in *section 19(9)(b)* applicable to the same relevant storage (E) results in the last shorter storage period (E) of that combination taking the combined periods up to the period specified in *paragraph (b)* of the definition of "relevant storage period (E)", *subsections (2)* to *(7)* shall, with all necessary modifications, apply to the period the subject of that last shorter storage period (E) as they apply to a period which falls within *paragraph (b)* of the definition of "relevant storage period (E)".

(9) (a) Where there has been a failure to make one or more than one payment to the relevant storer (E) of a relevant storage (E) for such storage, the storer may, by notice in writing (and to which is attached a copy of this subsection) given to the person who, under the terms and conditions on which the storage was made, is required to make such payment—

(i) request the person to make the payment, and

(ii) advise the person to read the copy of this subsection attached to the notice as to the consequences of continuing to fail to make the payment.

(b) The relevant storer (E) may dispose of the embryo concerned where 12 months have elapsed from the date of issue of the notice concerned under *paragraph (a)* without the payment the subject of the notice having been made.

(10) In this section—

"eligible person", in relation to a relevant storage (E), means the intending parents (or, in the case of a single intending parent, that intending parent) for whom the embryo the subject of such storage was created for use in the provision of AHR treatment;

"extension" includes further extension.

Disposal of relevant storage (T)

42. (1) (a) Subject to *subsections (2)* and *(3)*, the relevant storer (T) of a relevant storage (T) shall dispose of such storage as soon as is practicable after—

(i) if applicable, the shorter storage period (T) has elapsed, or

(ii) in any other case—

(I) the period specified for the purposes of this clause in regulations made under *paragraph (b)* has elapsed, or

(II) where no such period stands so specified, the period of 10 years has elapsed from the date on which such storage was commenced.

(b) Subject to *paragraphs (c)* and *(d)*, the Minister may make regulations to specify a period for the purposes of *clause (I)* of *subparagraph (ii)* of *paragraph (a)*.

(c) Where the Minister makes regulations under *paragraph (b)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following:

(i) the current state of medical evidence as to the viability of the use of tissues in AHR treatment by reference to the length of the period for which the tissues were stored;

(ii) where relevant, the age of the person for whom the tissues were stored for future use in the provision of AHR treatment to that person;

(iii) where relevant, the ages of the intending parents (or, in the case of a single intending parent, the age of that parent) of any child that may be born as the result of the future use in the provision of AHR treatment of tissues that were stored for such use.

(d) On and after the establishment day, the Minister shall not make regulations under *paragraph (b)* except after consultation with the AHRRA.

(2) Subject to *subsection (8)*, an eligible person may make an application in the specified form (in this section referred to as a "*section 42* application"), before the expiration of the relevant storage period (T) for the relevant storage (T) the subject of the application where such period falls within *paragraph (b)* of the definition of "relevant storage period (T)", to the AHRRA to grant an extension to such period.

(3) Subject to *subsection (6)*, the AHRRA shall determine a *section 42* application—

(a) where it is satisfied that, in all the circumstances of the case, there are reasonable grounds for granting the extension sought by the application (or part only of such extension), by notice in writing given to the applicant and the relevant storer (T), granting such extension (or, as the case may be, part only of such extension), or

(b) in any other case, by notice in writing given to the applicant, refusing to grant such extension.

(4) Where the AHRRA under *subsection (3)*—

(a) grants part only of the extension sought to the relevant storage period (T) for a relevant storage (T), or

(b) refuses to grant any such extension,

it shall, in the notice concerned referred to in that subsection, state its reasons for such partial grant or refusal, as the case may be.

(5) The relevant storer (T) shall, not less than six months before the expiration of the relevant storage period (T) for a relevant storage (T), make reasonable efforts to give a notice in the specified form to an eligible person—

(a) advising such person (and without prejudice to the generality of *section 151*) of the date on which such period ends, and

(b) to which is attached a statement as to the effect of this section.

(6) (a) *Paragraph (b)* applies where the AHRRA is minded to determine a *section 42* application by—

(i) granting part only of the extension sought to the relevant storage period (T) for a relevant storage (T), or

(ii) refusing to grant any such extension.

(b) The AHRRA shall give a notice in writing to the applicant stating—

(i) how the AHRRA is minded to determine the application as specified in *paragraph (a)* and setting out the AHRRA's reasons why it is so minded, and

(ii) that the applicant may, if the applicant wishes to do so, within the period specified in the notice (being a period reasonable in all the circumstances of the case) provide, in view of those reasons only, supplementary material in the specified form to the AHRRA for the AHRRA's further consideration before making a determination under *subsection (3)* following the expiration of that period.

(7) For the avoidance of doubt, it is hereby declared that *subsection (6)* only applies once to the same *section 42* application.

(8) Where a combination of shorter storage periods (T) referred to in *section 19(9)(c)* applicable to the same relevant storage (T) results in the last shorter storage period (T) of that combination taking the combined periods up to the period specified in *paragraph (b)* of the definition of "relevant storage period (T)", *subsections (2)* to *(7)* shall, with all necessary modifications, apply to the period the subject of that last shorter storage period (T) as they apply to a period which falls within *paragraph (b)* of the definition of "relevant storage period (T)".

(9) (a) Where there has been a failure to make one or more than one payment to the relevant storer (T) of a relevant storage (T) for such storage, the storer may, by notice in writing (and to which is attached a copy of this subsection) given to the person who, under the terms and conditions on which the storage was made, is required to make such payment—

(i) request the person to make the payment, and

(ii) advise the person to read the copy of this subsection attached to the notice as to the consequences of continuing to fail to make the payment.

(b) Subject to *paragraph (c)*, the relevant storer (T) may dispose of the tissues concerned where 12 months have elapsed from the date of issue of the notice concerned under *paragraph (a)* without the payment the subject of the notice having been made.

(c) Where *section 39* applies, the relevant storer (T) may not exercise the power under *paragraph (b)* except with the consent of the AHRRA.

(10) In this section—

"eligible person", in relation to a relevant storage (T), means—

(a) subject to *paragraph (b)*, the person for whom the tissues the subject of such storage are being stored, or

(b) where *section 39* applies and the child whose tissues are the subject of such storage has not attained the age of 18 years, the relevant person (within the meaning of *section 39(4)*) who gave the *section 19* consent concerned referred to in *section 39(1)*;

"extension" includes further extension.

PART 5

Posthumous assisted human reproduction

Requirements applicable to provision of PAHR

43. (1) An AHR treatment provider shall not provide PAHR to a surviving partner before the 1st anniversary of the date of death of person (D).

(2) An embryo created using a relevant donation (G) shall not be used in PAHR unless—

(a) the embryo was created—

(i) using such donation and the gametes of person (D) if such person were a man, and

(ii) before the death of person (D),

or

(b) the embryo was created—

(i) using such donation and the gametes of person (D) if such person were a woman, and

(ii) before the death of person (D).

PART 6

Pre-implantation genetic testing

Definitions - *Part 6*

44. In this Part—

"AHR treatment to which this Part applies" means—

(a) PGT,

(b) HLA matching, and

(c) sex selection;

"genetic counselling", in relation to AHR treatment to which this Part applies, means a service provided by a genetic counsellor, with clinical governance provided by a relevant specialist in any case where the genetic counsellor is not also a relevant specialist, under which he or she counsels a person regarding—

(a) the potential risks and implications arising from and after the provision of such treatment, and

(b) other options (if any) available in lieu of such treatment;

"genetic counsellor", in relation to AHR treatment to which this Part applies, means a person who has the requisite skills and judgment to provide genetic counselling as regards such treatment by virtue of—

(a) holding a qualification prescribed (following, on and after the establishment day, consultation by the Minister with the AHRRA) for the purposes of this definition,

(b) having the practical experience prescribed (following, on and after the establishment day, consultation by the Minister with the AHRRA) for the purposes of this definition, or

(c) holding a qualification, and having the practical experience, prescribed (following, on and after the establishment day, consultation by the Minister with the AHRRA) for the purposes of this definition;

"genetic disease" means a disease caused by single gene or chromosomal variants that can be inherited and that, on the basis of existing scientific and medical evidence, confers a high risk on the person with the disease of having—

(a) a serious physical or intellectual disability,

(b) a serious illness, or

(c) a fatal condition;

"HLA matching" means an AHR treatment using PGT to test and select an embryo for implantation in the womb of a woman for the purpose of matching the tissue of a child who is born as a result of the treatment with the tissue of an existing child who has a life-limiting condition;

"PGT" means pre-implantation genetic testing;

"PGT-A" means PGT which falls within *paragraph (a)* of the definition of "pre-implantation genetic testing";

"PGT-M" means PGT which falls within *paragraph (b)* of the definition of "pre-implantation genetic testing";

"PGT-SR" means PGT which falls within *paragraph (c)* of the definition of "pre-implantation genetic testing";

"pre-implantation genetic testing" means a test performed to analyse the DNA (deoxyribonucleic acid) of embryos for the purpose of determining genetic disorders, or

for the undertaking of HLA matching, and includes—

(a) such testing for aneuploidies (being embryos with an unbalanced chromosomal complement),

(b) such testing for single gene disorders,

(c) such testing for chromosomal structural rearrangements, and

(d) such other testing prescribed (following, on and after the establishment day, consultation by the Minister with the AHRRA) for the purposes of this definition;

"Register of Genetic Diseases" shall be construed in accordance with *section 49*;

"relevant specialist" means a registered medical practitioner whose name is entered, in respect of clinical genetics, in the Specialist Division of the register of medical practitioners maintained by the Medical Council under section 43(2)(b) of the Act of 2007;

"sex selection" means AHR treatment provided to a person for the purpose of ensuring, or increasing the probability, that an embryo will be of a particular sex;

"variant" means a permanent change to the DNA sequence that makes up a gene that may cause disease or be part of normal human variation.

PGT-M and PGT-SR

45. (1) An AHR treatment provider shall not provide PGT-M or PGT-SR except in accordance with *section 47* or *48* where—

(a) the provider is satisfied, founded on a relevant opinion, that such provision is necessary to detect whether or not there is a significant risk of a child being born with a genetic disease the name of which is for the time being entered in the Register of Genetic Diseases, or

(b) such provision is for the purposes of HLA matching.

(2) In this section, "relevant opinion", in relation to a risk referred to in *subsection (1)(a)*, means the opinion in writing of a relevant specialist that there is such a risk.

PGT-A

46. An AHR treatment provider shall not provide PGT-A except for the purposes of genetically testing an embryo for a chromosomal variant that may affect the capacity of the embryo to result in a live birth where—

(a) PGT-M or PGT-SR is being undertaken, or

(b) such testing has been indicated in accordance with criteria that have been prescribed (following, on and after the establishment day, consultation by the Minister with the AHRRA).

HLA matching

47. (1) An AHR treatment provider shall not provide HLA matching except with the consent in writing of the AHRRA where there is an existing child (in this section referred to as the "relevant child") who has a life-limiting condition who would be the sibling (or half-brother or half-sister) of any child to be born following such matching where—

(a) no alternative treatment, on the basis of existing scientific and medical evidence, is available to manage the relevant child's life-limiting condition,

(b) the treatment of the relevant child's life-limiting condition with stem cells from the umbilical cord or bone marrow, or transplantation of regenerative tissue, from the child born following HLA matching has a reasonable chance, on the basis of existing scientific and medical evidence, of improving the relevant child's life-limiting condition, and

(c) the treatment referred to in *paragraph (b)* would not be considered, on the basis of existing scientific and medical evidence, to be detrimental to the welfare of the child to be born following HLA matching.

(2) In this section, "life-limiting condition", in relation to HLA matching and the relevant child, means a condition which such child has, for which there is no reasonable hope, on the basis of existing scientific and medical evidence, of a cure (other than the treatment referred to in *subsection (1)(b)*) and from which the child will die.

Sex selection

48. An AHR treatment provider shall not provide sex selection except where, in the opinion of a relevant specialist, such treatment is indicated because there is a significant risk of a child being born with a genetic disease the name of which is for the time being entered in the Register of Genetic Diseases and that disease—

(a) affects only one sex, or

(b) affects one sex significantly more than the other.

Establishment of Register of Genetic Diseases

49. (1) The AHRRA shall, as soon as is practicable after the commencement of this section, establish and maintain a register to be known as the Register of Genetic Diseases.

(2) The Register of Genetic Diseases shall be in the form of an electronic database published on the AHRRA's website.

(3) The AHRRA shall, as soon as is practicable after the commencement of this section and from time to time thereafter, enter in the Register of Genetic Diseases the name of each disease which the AHRRA is satisfied, after having regard to current scientific and medical evidence, is a genetic disease.

Genetic counselling

50. (1) Without prejudice to the generality of *section 18*, an AHR treatment provider shall not provide any relevant AHR treatment to a person seeking such treatment unless the provider is satisfied that the person and the relevant person have received genetic counselling in relation to such treatment.

(2) Where PGT-A has been provided to a person and that treatment has resulted in the detection of a complex chromosomal variant, an AHR treatment provider shall not provide other AHR treatment (not being relevant AHR treatment or PGT-A) to the person unless the provider is satisfied that the person and the relevant person have received genetic counselling—

(a) subsequent to the provision of the PGT-A, and

(b) before the provision of the other AHR treatment.

(3) Where *subsection (1)* or *(2)* requires that genetic counselling be provided to two intending parents, the genetic counsellor shall offer the counselling to the parents individually, together as a couple, or both.

(4) (a) Subject to *paragraph (b)*, an AHR treatment provider shall not be, or hold out to be, a genetic counsellor.

(b) *Paragraph (a)* shall not be construed to prevent the AHR treatment provider from having a genetic counsellor as a member of the provider's staff.

(5) In this section—

"relevant AHR treatment" means AHR treatment (other than PGT-A) to which this Part applies;

"relevant person", in relation to a person seeking relevant AHR treatment or PGT-A, means, if such person is an intending parent, the other intending parent (if any).

PART 7

Domestic surrogacy

Definitions - *Part 7*

51. In this Part—

"domestic surrogacy" means a surrogacy agreement in the specified form—

(a) entered into by—

(i) a surrogate mother who has been habitually and lawfully resident in the State for not less than two years, and

(ii) either—

(I) both intending parents, not less than one of whom has been habitually and lawfully resident in the State for not less than two years, or

(II) in the case of a single intending parent, that intending parent where he or she has been habitually and lawfully resident in the State for not less than two years,

and

(b) under which the embryo transfer is to be undertaken in the State;

"permitted surrogacy" shall be construed in accordance with *section 52(1)*;

"*section 65* application" shall be construed in accordance with *section 65(1)*.

Permitted surrogacy

52. (1) The surrogacy the subject of a surrogacy agreement is a permitted surrogacy only where the surrogacy is a domestic surrogacy that has been approved under *section 53* by the AHRRA before any AHR treatment has been provided pursuant to the agreement and the surrogacy complies with all of the following:

(a) the surrogate mother meets the requirements specified in *section 55*;

(b) the intending parents together as a couple meet (or, in the case of a single intending parent, that intending parent meets) the requirements specified in *section 56*;

(c) it is not a commercial surrogacy agreement referred to in *section 57*;

(d) the personal details of the intending parents (or, in the case of a single intending parent, the personal details of that intending parent), the surrogate mother, the relevant donor (G) (if any) and any child born as a result of AHR treatment provided pursuant to the surrogacy agreement are recorded in accordance with *sections 62* and *68*.

(2) Subject to *subsections (4)* and *(5)*, a person shall not knowingly provide a technical, professional or medical service that is to give effect or further effect to any agreement or other arrangement which purports to relate to a permitted surrogacy, but does not in fact relate to a permitted surrogacy.

(3) Without prejudice to the generality of *subsection (2)*, a person shall not—

(a) knowingly participate in any agreement or other arrangement referred to in that subsection, or

(b) induce or attempt to induce another person to participate in any such agreement or other arrangement.

(4) Neither *subsection (2)* nor *(3)* shall be construed as prohibiting a legal practitioner from giving legal advice in relation to any agreement or other arrangement—

(a) referred to in *subsection (2)*, or

(b) which is the equivalent, in another jurisdiction, of any such agreement or arrangement.

(5) Nothing in this section shall be construed as prohibiting a person from providing medical treatment to a woman after she is pregnant if the person is, at the time of providing such treatment, lawfully entitled to provide the treatment in the State.

Approval of surrogacy agreements

53. (1) A person shall not participate in a surrogacy agreement other than a surrogacy agreement that has been approved under *subsection (4)*.

(2) An AHR treatment provider may make an application in the specified form (in this Part referred to as a "*section 53* application"), accompanied by the specified fee, to the AHRRA for the AHRRA's approval under *subsection (4)* of the completed surrogacy agreement attached to the application.

(3) Without prejudice to the generality of *section 151*, the specified form of a surrogacy agreement shall require, in the case of two intending parents, each of them to indicate that he or she understands that, should the agreement be approved under this section but he or she dies before the embryo transfer concerned has been effected, such approval will be treated as revoked from and including the date of death.

(4) Subject to *sections 54*, *75* and *76*, the AHRRA shall determine a *section 53* application by—

(a) subject to *subsection (5)*, giving notice in writing to the applicant approving the surrogacy agreement attached to the application where the AHRRA is satisfied that—

(i) the surrogacy the subject of the agreement is a permitted surrogacy, and

(ii) the agreement has been correctly (including accurately) completed and, without prejudice to the generality of the foregoing—

(I) the agreement contains a declaration by the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) that, to the best of their knowledge and belief, the surrogacy the subject of the surrogacy agreement is a permitted surrogacy, and

(II) subject to *section 151(4)*, the agreement has been signed by—

(A) the surrogate mother, and

(B) the intending parents (or, in the case of a single intending parent, that intending parent),

or

(b) in any other case, giving notice in writing to the applicant refusing to approve the surrogacy agreement and stating in the notice the reasons for such refusal.

(5) (a) Subject to *paragraph (b)*, the approval under *subsection (4)* of a surrogacy agreement shall expire when the period of two years has elapsed from the date of such approval.

(b) The AHRRA shall specify in the approval under *subsection (4)* of a surrogacy agreement a shorter period than the two years referred to in *paragraph (a)* where that is necessary in order to ensure that a specified upper age limit is complied with.

(6) Where the AHRRA is minded to determine a *section 53* application by refusing to approve the surrogacy agreement attached to the application, it shall, in the interests of procedural fairness, give a notice in writing to the applicant stating—

(a) that the AHRRA is so minded and stating the reasons why the AHRRA is so minded, and

(b) that the applicant may, if the applicant wishes to do so, within the period specified in the notice (being a period reasonable in all the circumstances of the case) provide, in view of those reasons only, supplementary material in the specified form to the AHRRA for the AHRRA's further consideration before making a determination under *subsection (4)* following the expiration of that period.

(7) For the avoidance of doubt, it is hereby declared that *subsection (6)* only applies once to the same *section 53* application.

(8) In the case of two intending parents, should a surrogacy agreement be approved under this section but an intending parent dies before the embryo transfer concerned has been effected, such approval shall, by virtue of this subsection, be treated as revoked from and including the date of death, and the other provisions of this Act shall be construed accordingly.

Safety of children - AHRRA

54. (1) The AHRRA shall not approve under *section 53* a surrogacy agreement unless it is satisfied, based on the information available to the AHRRA, that the relevant person, and each other relevant person, does not present a potential significant risk of harm or neglect to—

(a) any child that may be born as a result of the AHR treatment the subject of the surrogacy agreement attached to the application, or

(b) any other child.

(2) (a) Subject to *paragraph (b)*, the AHRRA shall, for the purposes of *subsection (1)*, make a request in writing to each relevant person to complete and submit to the AHRRA within the period specified in the request (being a period reasonable in all the circumstances of the case), a return in the specified form (in this section referred to as a "*section 54* return") attached to the request.

(b) Subject to *paragraph (c)* and *subsection (6)*, the Minister—

(i) shall, as soon as is practicable after the commencement of this subsection, by regulations specify the information, or information falling within a class of information specified in the regulations, that a *section 54* return may require

a relevant person, or a relevant person falling within a class of relevant persons specified in the regulations, to provide, and

(ii) may by regulations specify the circumstances (if any) in which such information may be further disclosed by the AHRRA in addition to further disclosures required by law.

(c) Where the Minister makes regulations under *paragraph (b)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following:

(i) that, in determining the information to be specified, the paramount consideration is the safety of any child referred to in *subsection (1)*;

(ii) that the information sought needs to be appropriate and proportionate to satisfying the AHRRA as referred to in *subsection (1)*;

(iii) that any information sought which may reasonably be regarded as sensitive information is protected from any unnecessary further disclosure by the AHRRA except where such further disclosure is required by law.

(d) The AHRRA shall, in specifying different forms of *section 54* returns, ensure that the forms are consistent with the regulations made under *paragraph (b)*.

(3) Subject to *subsection (4)*, where the AHRRA is not satisfied after having assessed the *section 54* returns concerned, as referred to in *subsection (1)*, it shall, as soon as is practicable after the expiration of the period concerned referred to in *subsection (2)(a)*, by notice in the specified form (in this section referred to as a "*section 54* notice") given to each relevant person, state the reasons why the provider is not so satisfied.

(4) For the purposes of *subsection (3)*, the AHRRA may also assess information obtained otherwise than from a relevant person.

(5) The AHRRA shall retain the original or a copy of—

(a) a *section 54* return,

(b) a *section 54* notice,

(c) information referred to in *subsection (4)* which is in writing, and

(d) any note made in writing, by the AHRRA, of information referred to in *subsection (4)* which is not in writing,

for not less than 30 years after receiving the return, issuing the notice, obtaining the information or making the note, as the case may be.

(6) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the AHRRA.

(7) In this section, "relevant person", in relation to any child that may be born as a result of AHR treatment, means—

(a) in the case of two intending parents, each of the parents,

(b) in the case of a single intending parent, that parent and the parent's spouse, civil partner or cohabitant (if any), and

(c) in the case of a surrogate mother, that mother and her spouse, civil partner or cohabitant (if any).

Surrogate mothers - domestic surrogacy

55. (1) Subject to *subsection (2)*, a woman may act as a surrogate mother pursuant to a surrogacy agreement only if—

(a) she has previously given birth to a child before entering into the agreement,

(b) she has attained the age of 25 years before entering into the agreement,

(c) the *section 18* report concerned states that she is suitable to act as a surrogate mother, and

(d) she has been assessed and approved as suitable to act as a surrogate mother by an appropriate medical specialist.

(2) (a) A surrogacy agreement is not a permitted surrogacy if the surrogate mother has, before entering into such agreement, been a surrogate mother upon more than one occasion, and where on at least two such occasions a clinical pregnancy was achieved.

(b) In *paragraph (a)*—

"clinical pregnancy" means a pregnancy not less than six weeks in gestation and in respect of which there is evidence of a gestational sac having been identified through an ultrasound scan;

"surrogate mother" includes, in addition to a surrogate mother as defined in *section 2*, a woman who, before the commencement of this subsection, has entered into an agreement with the intending parents concerned (or, in the case of a single intending parent, that intending parent) under which she has agreed to attempt to become pregnant, whether or not by the use of her own egg, and, if successful, to transfer the parentage of any child born as a result of the pregnancy to the intending parents (or, in the case of a single intending parent, that intending parent).

Intending parents - domestic surrogacy

56. (1) A surrogacy agreement may be entered into by—

(a) two intending parents jointly, or

(b) a single intending parent.

(2) Any intending parent shall have attained the age of 21 years before the *section 53* application concerned is made.

(3) Every surrogacy agreement shall—

(a) involve an embryo which was or will be created using the gametes of either or both of the intending parents (or, in the case of a single intending parent, the gamete of that intending parent),

(b) require that at least one of the intending parents (or, in the case of a single intending parent, that intending parent) has objectively, and in all the circumstances of the case, a reasonable expectation of living to parent a child born as a result of AHR treatment provided pursuant to the agreement until that child has attained the age of 18 years, and

(c) involve the following, as appropriate:

(i) in the case of a male and a female as the intending parents—

(I) the female is unable to conceive a child, including as a result of the provision (including the potential provision) of AHR treatment,

(II) the female is unable to gestate a pregnancy to birth,

(III) the female is unlikely to survive a pregnancy or giving birth, or

(IV) the female is likely to have her health significantly adversely affected by a pregnancy or giving birth;

(ii) in the case of two females as the intending parents, each of them—

(I) is unable to conceive a child, including as a result of the provision (including the potential provision) of AHR treatment,

(II) is unable to gestate a pregnancy to birth,

(III) is unlikely to survive a pregnancy or giving birth, or

(IV) is likely to have her health significantly adversely affected by a pregnancy or giving birth;

(iii) the intending parents are both males;

(iv) in the case of a single intending parent, the intending parent is a male or, if a female, she—

(I) is unable to conceive a child, including as a result of the provision (including the potential provision) of AHR treatment,

(II) is unable to gestate a pregnancy to birth,

(III) is unlikely to survive a pregnancy or giving birth, or

(IV) is likely to have her health significantly adversely affected by a pregnancy or giving birth.

(4) The intending parents (or, in the case of a single intending parent, that intending parent) shall give an undertaking in the specified form, before the *section 53* application concerned is made, that he or she shall—

(a) take all necessary steps to provide care and protection, prevent harm or neglect to, and ensure the welfare of, any child born as a result of AHR treatment provided pursuant to the surrogacy agreement, and

(b) make a *section 65* application in respect of any child born as a result of AHR treatment provided pursuant to the surrogacy agreement.

(5) The AHR treatment provider shall ensure that an intending parent who provided a gamete used to create the embryo to be transferred pursuant to the surrogacy agreement has undergone the testing required for donors of reproductive cells under Regulation 11 of the Regulations of 2006 before the embryo transfer is undertaken.

(6) Where the results of the testing referred to in *subsection (5)* undergone by the intending parent are that the gamete concerned does not meet the standards of quality and safety set by the Regulations of 2006, the AHR treatment provider shall, as soon as is practicable after obtaining those results, give such parent a notice in the specified form refusing to accept the gamete for use in AHR treatment.

Prohibition of commercial surrogacy - domestic surrogacy

57. (1) Subject to *subsection (2)*, a surrogacy agreement is a commercial surrogacy agreement if any person—

(a) receives or agrees to receive any payment or other reward in consideration of entering into or giving effect to the agreement,

(b) offers, makes or gives, or agrees to offer, make or give, any payment or other reward in consideration of entering into or giving effect to the agreement, or

(c) receives, makes or gives, or agrees to receive, make or give, any payment or other reward in consideration of facilitating the entering into or giving effect to the agreement.

(2) Any reference to payment or other reward in *subsection (1)* shall not include fees paid for legal advice referred to in *section 52(4)* or *61* or a surrogate mother's reasonable expenses as construed in accordance with *section 58*.

(3) A person shall not do an act which falls within *paragraph (a)*, *(b)* or *(c)* of *subsection (1)*.

Surrogacy agreements and reasonable expenses

58. (1) An obligation under a surrogacy agreement to pay or reimburse the surrogate mother's reasonable expenses is enforceable if the agreement was made before the transfer of the embryo to the surrogate mother.

(2) For the purposes of this Part, the reasonable expenses are the surrogate mother's reasonable expenses associated with any of the following matters that are part of the surrogacy agreement:

(a) becoming or trying to become pregnant;

(b) pregnancy or birth;

(c) entering into and giving effect to the agreement.

(3) The reasonable expenses of a surrogate mother associated with the pregnancy or birth referred to in *subsection (2)(b)* include the following:

(a) any pre-natal or post-natal medical expenses associated with the pregnancy or birth;

(b) any travel or accommodation expenses associated with the pregnancy or birth;

(c) the expense of reimbursing the surrogate mother for any net loss of income entailed in being the surrogate mother but only for the following periods:

(i) a period of not more than 6 months during which the birth happened or was expected to happen;

(ii) any other period during the pregnancy or thereafter, not exceeding 12 months in total, when the surrogate mother was unable to work on medical grounds related to pregnancy or birth.

(4) The reasonable expenses associated with entering into and giving effect to a surrogacy agreement referred to in *subsection (2)(c)* include the following:

(a) the expenses associated with the surrogate mother receiving AHR counselling in relation to the agreement (whether before or after she entered into the agreement);

(b) the expenses associated with the surrogate mother receiving independent legal advice in relation to the agreement or a parental order related to the agreement;

(c) the expenses, including the reasonable travel and accommodation expenses, associated with the surrogate mother being a party to proceedings in relation to making a parental order related to the agreement.

(5) Subject to *subsection (8)*, the reasonable expenses of the surrogate mother under any of *subsections (2)* to *(4)* shall include any other matters that may be prescribed.

(6) Where the Minister prescribes matters under *subsection (5)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to reasonable expenses that may be incurred by the surrogate mother in relation to any one or more than one of the following:

(a) maternity clothing;

(b) paid housework or childcare undertaken by persons other than the surrogate mother and her spouse, civil partner or cohabitant (if any);

(c) pregnancy aids that assist in the comfort and well-being of the surrogate mother;

(d) any other expenses typically incurred in the course of a pregnancy.

(7) An expense is reasonable under any of *subsections (2)* to *(5)* only if—

(a) the expense is actually incurred, and

(b) the amount of the expense can be verified by receipts or other documentation.

(8) On and after the establishment day, the Minister shall not prescribe matters under *subsection (5)* except after consultation with the AHRRA.

Non-enforceability of surrogacy agreements, etc.

59. (1) A surrogacy agreement shall not be enforceable by or against any person otherwise than as provided for in *section 58*.

(2) A surrogate mother has, in relation to her pregnancy, the same rights as a woman, not being a surrogate mother, has in relation to her pregnancy, including—

(a) the right to manage all aspects of her health during the pregnancy and, in that regard, to freely seek and obtain medical services in relation to the pregnancy, and

(b) the right to privacy and confidentiality in relation to her medical treatment during the course of the pregnancy.

Advertisements for surrogacy - domestic surrogacy

60. (1) A person shall not publish, or cause to be published, any advertisement, statement, notice or other material that—

(a) states or implies that a person is or may be willing to enter into or arrange a surrogacy agreement,

(b) seeks a person willing to act as a surrogate mother,

(c) states or implies that a person is or may be willing to act as a surrogate mother, or

(d) is intending or is likely to induce a person to act as a surrogate mother.

(2) In this section, "publish" means to disseminate or provide access, by any means, to the public or a section of the public.

Requirement for independent legal advice - domestic surrogacy

61. The surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) involved shall have received independent legal advice from a legal practitioner and information about the legal implications of the surrogacy agreement before the *section 19* consent concerned is given.

Information to be provided to and recorded by AHRRA in relation to surrogacy agreements

62. (1) The AHR treatment provider shall, for each embryo transfer undertaken by the provider pursuant to the surrogacy agreement, acquire and retain a record of the following:

(a) in the case of the surrogate mother—

(i) her name,

(ii) her date and place of birth,

(iii) her nationality, and

(iv) her address and contact details;

(b) in the case of each intending parent—

(i) his or her name,

(ii) his or her date of birth,

(iii) whether or not he or she provided a gamete used under the agreement, and

(iv) his or her address and contact details;

(c) in the case of the relevant donor (G) (if any)—

(i) his or her name,

(ii) his or her date and place of birth,

(iii) his or her nationality,

(iv) the date on which, and the AHR treatment facility or other like facility, as appropriate, at which he or she made his or her relevant donation (G), and

(v) his or her contact details;

(d) the date on which, and the AHR treatment facility at which, the embryo transfer was undertaken;

(e) the information given to the AHR provider under *subsection (2)*.

(2) Where an AHR treatment has been provided pursuant to a surrogacy agreement by an AHR treatment provider, the surrogate mother shall, as soon as is practicable after becoming aware of the fact, inform the provider of the following:

(a) whether the embryo transfer resulted in a pregnancy;

(b) where the embryo transfer has resulted in pregnancy, the date on which the surrogate mother is expected to give birth;

(c) where *paragraph (b)* applies, after the pregnancy of the surrogate mother has come to an end—

(i) whether the pregnancy resulted in the birth of a live child, and

(ii) where the pregnancy resulted in the birth of a live child, the name, date, place of birth, sex and address of the child.

(3) The AHR treatment provider shall, for each embryo transfer undertaken by the provider pursuant to a surrogacy agreement, give notice in writing in the specified form to the AHRRA of the following:

(a) that an embryo transfer pursuant to a surrogacy agreement has been undertaken at the AHR treatment facility;

(b) the information the provider has recorded in accordance with *subsection (1)*.

(4) Subject to *subsection (2)*, the AHR treatment provider shall give to the AHRRA the information required under *subsection (3)* in relation to each embryo transfer undertaken pursuant to a surrogacy agreement at the AHR treatment facility on each of the following dates:

(a) on a date that is not later than six months after the provision of the embryo transfer concerned;

(b) on a date that is not earlier than 12 months and not later than 13 months after the undertaking of the embryo transfer concerned.

(5) (a) Where the AHR treatment provider becomes aware of an error in any information given under this section to the AHRRA, the provider shall, without delay, inform the AHRRA of the error and give the AHRRA the corrected information.

(b) Where the AHR treatment provider becomes aware of a failure to give information to the AHRRA required by this section to be so given, the provider shall, without delay, inform the AHRRA of the failure and give the AHRRA the information.

(6) Where the AHR treatment provider concerned has reasonable grounds to believe that the surrogate mother has failed to comply with *subsection (2)*, the provider shall take such steps as are reasonable in all the circumstances of the case to—

(a) contact the surrogate mother to ascertain whether or not there has been such a failure, or

(b) if there has been such a failure, encourage the surrogate mother to comply with that subsection.

Provisions applicable in case of relevant donation (G)

63. (1) Where a relevant donation (G) is used to create the embryo transferred pursuant to a surrogacy agreement, the relevant donor (G)—

(a) is not the parent of a child born as a result of AHR treatment provided pursuant to such use of such donation, and

(b) has no parental rights or duties in respect of the child.

(2) On and after the commencement of this section, a reference in any enactment to a mother, father or parent of a child who was born as a result of AHR treatment provided pursuant to a surrogacy agreement under which the embryo transferred was created using a relevant donation (G) shall be construed as not including the relevant donor (G).

(3) Where an embryo proposed to be transferred pursuant to a surrogacy agreement was or will be created using a relevant donation (G), the transfer shall not be effected unless the *section 19* consent of the relevant donor (G) permits the use of such donation pursuant to such an agreement.

Consent to child born as result of AHR treatment provided pursuant to surrogacy agreement to live with intending parents

64. (1) Subject to *subsection (2)*, where a child is born as a result of AHR treatment provided pursuant to a surrogacy agreement, the child may reside with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) only if the surrogate mother consents in the specified form thereto.

(2) *Subsection (1)* shall not apply where the surrogate mother—

(a) is deceased, or

(b) cannot be located after reasonable efforts have been made to find her.

Application for parental order - domestic surrogacy

65. (1) (a) Subject to *subsections (2)* to *(7)*, an application (in this Part referred to as a "*section 65* application") may be made to the court for a parental order in respect of a child who was born as a result of AHR treatment provided pursuant to a permitted surrogacy.

(b) A *section 65* application shall be accompanied by—

(i) the required particulars specified in Part 2C of the First Schedule to the Act of 2004, and

(ii) particulars of the expenses referred to in *section 58*.

(2) A *section 65* application may only be made by the intending parents or one of them (or, in the case of a single intending parent, that intending parent).

(3) The following shall be parties to a *section 65* application:

(a) the intending parents (or, in the case of a single intending parent, that intending parent);

(b) the surrogate mother;

(c) the child who was born as a result of AHR treatment provided pursuant to the permitted surrogacy.

(4) A *section 65* application shall be accompanied by evidence that—

(a) the embryo from which the child the subject of the application was born—

(i) was created using a gamete from not less than one of the intending parents of that child (or, in the case of a single intending parent of that child, was created using a gamete from that intending parent), and

(ii) was not created using an egg from the surrogate mother,

and

(b) the child resides with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) named on the application.

(5) Subject to *subsection (6)*, a *section 65* application shall be made not earlier than 28 days, and not later than six months, after the day on which the child was born.

(6) The court may extend the time referred to in *subsection (5)* if it is satisfied that—

(a) there are exceptional circumstances justifying the extension, and

(b) it is in the best interests of the child to do so.

(7) A *section 65* application in respect of a child shall only be made if any living sibling who was born as a result of the same pregnancy the subject of the surrogacy agreement concerned is also the subject of the application.

(8) Without prejudice to the generality of *section 66(6)* and *(7)*, the AHRRA and the Attorney General shall be served with a copy of the *section 65* application.

Grant of parental order - domestic surrogacy

66. (1) (a) Subject to *paragraph (b)* and *subsections (2)* to *(5)*, the court may grant an order pursuant to a *section 65* application if it is satisfied that—

(i) the surrogacy meets all of the requirements specified in *section 52*,

(ii) the intending parents (or, in the case of a single intending parent, that intending parent) named in the application consent to the granting of the order,

(iii) the surrogate mother consents to the granting of the order,

(iv) at the time of the hearing of the application, the child continues to reside with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) named on the application, and

(v) the granting of the order is in the best interests of the child.

(b) A parental order shall include the particulars referred to in *section 65(1)(b)(i)*.

(2) (a) The court may waive a requirement under *subsection (1)* for consent from an intending parent, in the case of two intending parents, if he or she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find him or her, or

(iii) lacks the capacity to make a decision in that regard.

(b) The court may waive a requirement under *subsection (1)* for consent from the surrogate mother if she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find her, or

(iii) lacks the capacity to make a decision in that regard.

(3) In determining, under *subsection (1)(a)(v)*, what is in the best interests of the child, the court shall have regard to all the circumstances that it considers relevant to the child who is the subject of the *section 65* application concerned, including—

(a) the child's age and maturity,

(b) the physical, psychological and emotional needs of the child,

(c) the likely effect of the granting of the parental order on the child,

(d) the child's social, intellectual and educational needs,

(e) the child's upbringing and care,

(f) the child's relationship with his or her intending parents (or, in the case of a single intending parent, that intending parent), and

(g) any other particular circumstances pertaining to the child.

(4) The court shall, in relation to its consideration of a *section 65* application and in so far as is practicable, in respect of any child who is capable of forming his or her own views, ascertain those views and give them due weight having regard to the age and maturity of the child.

(5) Proceedings under this section shall be heard otherwise than in public.

(6) At any time on or after the court receives a *section 65* application and a relevant authority is not already a party to the proceedings, the court may, at any stage of the proceedings, of its own motion or on the application of any party to the proceedings, direct that all necessary papers in the matter be sent to the relevant authority.

(7) Where, at any time on or after the court receives a *section 65* application, a relevant authority requests to be made a party to the proceedings, the court shall order that the relevant authority be added as a party, and, whether or not the relevant authority so requests, the relevant authority may argue before the court any question in relation to the application which the court considers necessary to have fully argued and take such other steps in relation thereto as the relevant authority thinks necessary or expedient.

(8) The court may direct that notice of a *section 65* application shall be given to such other persons as the court thinks fit and where notice is so given to any person the court may, either of its own motion or on the application of that person or any party to the proceedings, order that that person shall be added as a party to those proceedings.

(9) In this section, "relevant authority" means—

(a) the Attorney General, or

(b) the AHRRA.

Effect of parental order - domestic surrogacy

67. (1) Where the court grants a parental order in respect of a child—

(a) the child becomes the child of the intending parents (or, in the case of a single intending parent, that intending parent) named in the order,

(b) subject to *paragraph (e)*, the child is no longer the child of any person other than a person named as a parent in the order,

(c) the child will be considered, with regard to the rights and duties of parents and children in relation to each other, as the child of the intending parents (or, in the case of a single intending parent, that intending parent) named in the order,

(d) the surrogate mother of the child will lose all parental rights and is freed from all parental duties in respect of the child, and

(e) the order does not affect any order previously made under section 35 of the Status of Children Act 1987 in respect of an intending parent of the child.

(2) Where the court grants a parental order in respect of a child, it shall, within 14 days immediately following such grant, give, or cause to be given, a copy of the order to *an tArd-Chláraitheoir* and the AHRRA in order to allow—

(a) *an tArd-Chláraitheoir* to make, or cause to be made, an entry, in the register of parental orders for surrogacy established and maintained under section 13(1)(m) of the Act of 2004, in accordance with section 35C(2) of that Act, and

(b) the AHRRA to make an entry in the National Surrogacy Register under *section 68(3)(c)*.

(3) Where the court refuses to grant a parental order in respect of a child, the court shall, within 14 days immediately following such refusal, give, or cause to be given, a notice in writing of the particulars of such refusal to the AHRRA in order to allow the AHRRA to—

(a) make an entry in the National Surrogacy Register in accordance with *section 68(3)(c)*, and

(b) perform its function under *section 68(2)*.

National Surrogacy Register

68. (1) The AHRRA shall, as soon as is practicable after the commencement of this section, establish and maintain a register to be known as the National Surrogacy Register.

(2) Subject to *subsection (3)*, the AHRRA shall make an entry in the National Surrogacy Register, in respect of each child born in the State as a result of AHR treatment provided pursuant to a surrogacy agreement, as soon as is practicable after the AHRRA receives the particulars referred to in *subsection (3)*.

(3) An entry under *subsection (2)* shall contain the following particulars, where known:

(a) the information in respect of any child born as a result of AHR treatment provided pursuant to a surrogacy agreement, the surrogate mother, the intending parents (or, in the case of a single intending parent, that intending parent) and the relevant donor (G) (if any), as given to the AHRRA under *section 62(4)*;

(b) whether a *section 65* application has been made;

(c) where a *section 65* application has been made and determined, whether or not a parental order was granted and the date of the determination.

(4) Where the AHRRA has made an entry under *subsection (3)(a)* and no entry has been subsequently made under *subsection (3)(b)*, the AHRRA shall, not earlier than six months but not later than one year after first making the entry under *subsection (3)(a)*, contact the intending parents (or, in the case of a single intending parent, that intending parent) involved and the surrogate mother, where necessary, to determine if a *section 65* application has been made.

(5) Where the AHRRA becomes aware of updated information in relation to *subsection (3)*, or of an error in any information entered under that subsection, it shall, without delay, update or correct the information, as the case may be, and contact *an tArd-Chláraitheoir*, where necessary, to inform him or her of such updating or correction, as the case may be.

Interaction of National Surrogacy Register and register of births - domestic surrogacy

69. (1) This section applies where any of the following events (in this section referred to as a "relevant event") occurs:

(a) the AHRRA receives the copy of a parental order in respect of a child (AHR) from the court under *section 67(2)*;

(b) the AHRRA is notified under *section 67(3)* of a refusal of the court to grant a parental order;

(c) the AHRRA determines, in accordance with *section 68(4)*, that a *section 65* application has not been made.

(2) The AHRRA shall give notice in writing to *an tArd-Chláraitheoir* of the relevant event (which, in the case of a relevant event which falls within *subsection (1)(a)*, shall have a copy of the parental order attached to it) in order to enable *an tArd-Chláraitheoir* to note in the entry in the register of births in respect of the child (AHR) that the child was born as a result of AHR treatment provided pursuant to a surrogacy agreement and that additional information is available from the National Surrogacy Register in respect of the child (AHR).

(3) The note referred to in *subsection (2)* may only be given to the child (AHR) concerned on or after he or she becomes an adult (AHR).

(4) Where the child (AHR), on or after becoming an adult (AHR), applies for a copy of his or her birth certificate, *an tArd-Chláraitheoir* shall, when issuing a copy of the birth certificate, inform the adult (AHR) that further information relating to him or her is available on the National Surrogacy Register.

(5) In this section—

"birth certificate" means a document issued under section 13(4) of the Act of 2004 in respect of an entry in the register of births;

"register of births" means a register of births maintained by *an tArd-Chláraitheoir* under—

(a) section 13(1)(a) of the Act of 2004, or

(b) the repealed enactments (within the meaning of the Act of 2004).

Access to certain information from National Surrogacy Register and National Donor-Conceived Person Register - domestic surrogacy

70. (1) An adult (AHR) born as a result of AHR treatment provided pursuant to a surrogacy agreement in which a relevant donation (G) was used, or the parent or guardian of a child (AHR) born as a result of AHR treatment provided pursuant to a surrogacy agreement in which a relevant donation (G) was used, may make an application (in this section referred to as a "*section 70(1)* application") to the AHRRA for the AHRRA to give him or her the following information, where applicable:

(a) information in respect of the relevant donor (G) that is recorded on the National Surrogacy Register other than the donor's name, date of birth and contact details;

(b) the number of persons who have been born as a result of such use of such donation or, where applicable, a DAHR procedure or further DAHR procedure, or both, and the sex and year of birth of each of them.

(2) A relevant donor (G) may make an application (in this section referred to as a *section 70(2)* application) to the AHRRA for the AHRRA to give him or her information from the National Surrogacy Register on the number of persons who have been born as a result of the use of his or her relevant donation (G) in AHR treatment provided pursuant to a surrogacy agreement, and the sex and year of birth of each of them.

(3) A donor-conceived child who has attained the age of 16 years, or the parent or guardian of a donor-conceived child who has not attained the age of 16 years, may make an application (in this section referred to as a "*section 70(3)* application") to the AHRRA for the AHRRA to give him or her information on the number of persons who have been born as a result of the use in AHR treatment of a relevant donation (G) by the same relevant donor (G) where such donation so used created the embryo that resulted in the donor-conceived child, and the sex and year of birth of each of them.

(4) Subject to *sections 75* and *76*, the AHRRA shall comply with a *section 70(1)* application, *section 70(2)* application or *section 70(3)* application by giving notice in writing to the applicant setting out the information sought by the applicant.

Information in respect of intending parents or surrogate mother to be given to adult (AHR) - domestic surrogacy

71. (1) An adult (AHR) born as a result of AHR treatment provided pursuant to a surrogacy agreement may make an application (in this section referred to as a "*section 71* application") to the AHRRA to be given the name, date of birth and contact details of his or her intending parents (or, in the case of a single intending parent, that intending parent) or the surrogate mother, as the case may be, that are recorded on the National Surrogacy Register.

(2) Subject to *sections 75* and *76*, where the AHRRA receives a *section 71* application, it shall give the information sought by the *section 71* application to the adult (AHR).

Information in respect of relevant donor (G) to be provided to child born as result of AHR treatment provided pursuant to surrogacy agreement in which embryo transferred was created using relevant donation (G)

72. (1) This section applies to an adult (AHR) who was born as a result of AHR treatment provided pursuant to a surrogacy agreement in which the embryo transferred was created using a relevant donation (G).

(2) The adult (AHR) may make an application (in this section referred to as a "*section 72* application") to the AHRRA to be given the name, date of birth and contact details of the relevant donor (G) as recorded on the National Surrogacy Register.

(3) Subject to *sections 75* and *76*, where the AHRRA receives a *section 72* application, it shall give the information sought by the *section 72* application to the adult (AHR).

Information in respect of other persons that may be requested from AHRRA - domestic surrogacy

73. (1) This section applies to—

(a) a person (in this section referred to as the "relevant person") who is either—

(i) an adult (AHR) born as a result of AHR treatment provided pursuant to a surrogacy agreement in which the embryo transferred was created using a relevant donation (G), or

(ii) a donor-conceived child who has attained the age of 16 years,

and

(b) the relevant donor (G) of a relevant donation (G) that was used to create the embryo transferred pursuant to a surrogacy agreement which resulted in the birth of a child (AHR).

(2) (a) The relevant person may make an application (in this section referred to as a "*section 73(2)* application") to the AHRRA to record on the National Surrogacy Register or the National Donor-Conceived Person Register, as the case may be, a statement of his or her name, date of birth and contact details, and confirming that he or she consents to the release of that information to the applicant concerned where the AHRRA has received an application under this section for the release of such information.

(b) Subject to *sections 75* and *76*, the AHRRA shall comply with a *section 73(2)* application.

(3) (a) The relevant person may make an application (in this section referred to as a "*section 73(3)(a)* application") to the AHRRA to be given the name, date of birth and contact details of any child (AHR) or adult (AHR) with whom the relevant person shares a common relevant donor (G).

(b) The relevant donor (G) may make an application (in this section referred to as a "*section 73(3)(b)* application") to the AHRRA to be given the name, date of birth and contact details of the relevant person in relation to whom the donor provided a relevant donation (G) referred to in *subsection (1)(b)*.

(c) Subject to *sections 75* and *76*, where the AHRRA receives a *section 73(3)(a)* application or *section 73(3)(b)* application, it shall search the National Surrogacy Register and the National Donor-Conceived Person Register for the information sought by the application.

(4) Where the AHRRA receives a *section 73(3)(a)* application in respect of a relevant person to whom *subsection (2)* applies, the AHRRA shall send the relevant person a notice in writing informing him or her that—

(a) a *section 73(3)(a)* application has been made by another relevant person who shares a common relevant donor (G) with the first-mentioned relevant person, and

(b) unless the first-mentioned relevant person informs the AHRRA, within 12 weeks of the date of sending the notice, that he or she objects to the giving of the information sought by the application, the AHRRA will give the information to the applicant.

(5) Where the AHRRA receives a *section 73(3)(b)* application in respect of a relevant person to whom *subsection (2)* applies, the AHRRA shall send the relevant person a notice in writing informing him or her that—

(a) a *section 73(3)(b)* application has been made by the relevant donor (G) of the relevant donation (G) that was used to create the embryo concerned, and

(b) unless the relevant person informs the AHRRA, within 12 weeks of the date of sending the notice, that he or she objects to the giving of the information sought by the application, the AHRRA will give the information to the applicant.

(6) Where the relevant person to whom a notice under *subsection (4)* or *(5)* is given does not, within the 12 weeks referred to in that subsection, object to the giving of the information sought by the *section 73(3)(a)* application or *section 73(3)(b)* application, as the case may be, the AHRRA shall give that information to the applicant.

(7) In this section, a reference to a relevant donation (G) includes a reference to a gamete donated under the Act of 2015 and a reference to a relevant donor (G) includes, in the case of a gamete donated under the Act of 2015, the donor under the Act of 2015 of that gamete.

Provisions supplementary to *sections 70* to *73*

74. (1) Where information relating to a person is, in accordance with this Part, recorded on the National Surrogacy Register, that person (or, in the case of a person who has not attained the age of 16 years, his or her parent or guardian) may make an application (in this section referred to as a *section 74* application) to the AHRRA to update the information concerned.

(2) Subject to *sections 75* and *76*, the AHRRA shall comply with a *section 74* application.

Applications to AHRRA not correctly completed - domestic surrogacy

75. (1) Where the AHRRA is not satisfied that an application made to it under this Part has been correctly (including accurately) completed, it may, by notice in writing given to the applicant, refuse to comply with the application or, as the case requires, refuse to take any other action under this Part on foot of the application and state in the notice the reasons for such refusal.

(2) The reference in *subsection (1)* to the AHRRA not being satisfied that an application made to it under this Part has been correctly completed includes a reference to the AHRRA not being satisfied as to the identity of the applicant or another person named in the application.

Additional information - domestic surrogacy

76. Where an application is made under this Part to the AHRRA, the AHRRA may, by notice in writing given to the applicant, require the applicant to give in the specified form such additional information in relation to any matter to which the application relates as the AHRRA reasonably considers necessary to assist it to determine or, as the case requires, take any other action under this Part on foot of the application.

Provisions supplementary to *sections 75* and *76*

77. *Sections 75* and *76* shall, with all necessary modifications, apply to—

(a) a specified form, not being an application under this Part, given to the AHRRA under this Part as they apply to an application made under this Part, and

(b) the person who gave such form to the AHRRA as they apply to the applicant in respect of an application made to the AHRRA under this Part.

Onus on AHR treatment provider to be satisfied that certain provisions of this Part have been complied with

78. An AHR treatment provider shall not provide AHR treatment pursuant to a surrogacy agreement unless the provider is satisfied that the provisions of this Part applicable to the surrogacy and the surrogacy agreement that need to be complied with before the provision of such treatment have been complied with.

PART 8

INTERNATIONAL SURROGACY

CHAPTER 1

Interpretation, application and approval of surrogacy jurisdictions

Interpretation – *Part 8*

79. (1) In this Part—

"AHR counselling (SJ)", in relation to AHR treatment (SJ) to be provided pursuant to a surrogacy agreement attached to a *section 90* application, means a service provided by an AHR counsellor (SJ) under which he or she—

(a) if the application involves two intending parents, counsels such parents regarding the potential social and psychological implications that may arise in the case of such agreement being approved under *section 90* and, if applicable, such parents, or one of them, as the case may be, being provided such treatment,

(b) if the application involves a single intending parent, counsels such parent regarding the potential social and psychological implications that may arise in the case of such agreement being approved under *section 90* and, if applicable, such parent being provided such treatment, or

(c) counsels the potential surrogate mother regarding the potential social and psychological implications that may arise in the case of such agreement being approved under *section 90* and such mother being provided such treatment;

"AHR counsellor (SJ)", in relation to AHR treatment (SJ), means a person who has the requisite skills and judgment to provide AHR counselling (SJ) as regards such treatment;

"AHR treatment (SJ)" means the AHR treatment referred to in the definition of "AHR treatment provider (SJ)";

"AHR treatment facility (SJ)", in relation to AHR treatment (SJ) that the AHR treatment provider (SJ) may lawfully provide in the surrogacy jurisdiction concerned, means the premises in the jurisdiction at which the provider may lawfully provide such treatment;

"AHR treatment provider (SJ)", in relation to a surrogacy jurisdiction, means a person based in that jurisdiction who lawfully provides in the jurisdiction AHR treatment pursuant to a permitted international surrogacy;

"approved surrogacy jurisdiction" means a surrogacy jurisdiction for the time being approved under *section 81(1)*;

"intermediary", in relation to a surrogacy jurisdiction, means any person (including a body corporate or unincorporated body) who lawfully provides, in that jurisdiction, a service (not being the direct provision of a legal, medical or counselling service) in relation to a permitted international surrogacy;

"international surrogacy", in relation to a surrogacy jurisdiction, means a surrogacy agreement in the specified form—

(a) entered into by—

(i) a surrogate mother who has been habitually and lawfully resident in that jurisdiction for not less than two years immediately preceding her entering into the agreement, and

(ii) either—

(I) both intending parents, not less than one of whom has been habitually and lawfully resident in the State for not less than two years immediately preceding his or her entering into the agreement, or

(II) in the case of a single intending parent, that intending parent where he or she has been habitually and lawfully resident in the State for not less than two years immediately preceding his or her entering into the agreement,

(b) without prejudice to the generality of *section 80*, where the entering into that agreement by that surrogate mother and those intending parents or that intending parent, as the case may be, is lawful in that jurisdiction, and

(c) under which the surrogacy the subject of the agreement is to be undertaken in that jurisdiction;

"legal practitioner (SJ)", in relation to a surrogacy jurisdiction, means a person who is authorised (howsoever described) in that jurisdiction to provide legal advice on a surrogacy agreement (SJ) which may be, or has been, entered into for the purposes of a surrogacy the subject of that agreement which may be, or has been, undertaken in that jurisdiction;

"parental order" means an order granted by the court under *section 103(1)(a)* for the transfer of the parentage of a child;

"permitted international surrogacy" shall be construed in accordance with *section 89(1)*;

"relevant donation (SJG)" means, as appropriate—

(a) a donation of gametes made in accordance with—

(i) *section 27(1)* or *(2)*, or

(ii) the law of a jurisdiction (whether or not it is a surrogacy jurisdiction) other than the State,

for use in the provision of AHR treatment, or

(b) the gametes the subject of such donation;

"relevant donor (SJG)", in relation to a relevant donation (SJG), means the person who has made or proposes to make the donation;

"*section 87* consent" shall be construed in accordance with *section 87(1)*;

"*section 90* application" shall be construed in accordance with *section 90(2)*;

"*section 102* application" shall be construed in accordance with *section 102(1)*;

"surrogacy agreement (SJ)" means a surrogacy agreement referred to in the definition of "international surrogacy";

"surrogacy jurisdiction" means a jurisdiction outside the State where—

(a) the surrogacy the subject of a permitted international surrogacy may be lawfully undertaken, and

(b) the embryo transfer concerned is to be undertaken and, subject to *section 103(2)(a)*, the child (if any) resulting from that transfer is expected to be born.

(2) A reference in this Part to the spouse, civil partner or cohabitant of a surrogate mother shall be construed to include the equivalent (if any), under the law of the surrogacy jurisdiction concerned, of a spouse, civil partner or cohabitant as defined in *section 2*.

Application

80. For the avoidance of doubt, nothing in this Part shall be construed to relieve any person involved in any capacity in a surrogacy agreement (SJ) from compliance in all respects with the law of the surrogacy jurisdiction concerned relating to surrogacy in that jurisdiction.

Approval of surrogacy jurisdiction

81. (1) The AHRRA may, after consultation with the Minister and the Minister for Foreign Affairs and having regard to the matters specified in *subsection (2)* for the purposes of this subsection, by order approve a surrogacy jurisdiction specified in the order, with effect from a date specified in the order for the purpose, as a jurisdiction in which an international surrogacy may be undertaken if the AHRRA considers that such approval is appropriate in all the circumstances of the case.

(2) The matters which the AHRRA shall have regard to for the purposes of deciding whether or not to approve under *subsection (1)* a surrogacy jurisdiction as a jurisdiction in which an international surrogacy may be undertaken are as follows:

(a) the law of the jurisdiction relating to surrogacy, including whether or not that law—

(i) permits a commercial surrogacy referred to in *section 93*, and

(ii) requires intending parents or one of them (or, in the case of a single intending parent, that intending parent) to be resident or domiciled in the jurisdiction;

(b) without prejudice to the generality of *paragraph (a)*, the protections afforded under the law of the jurisdiction to children that may be born as a result of AHR treatment (SJ) in the event of any such children not receiving adequate care and protection;

(c) the ability of the AHRRA to monitor compliance with the provisions of this Part of an international surrogacy undertaken in the jurisdiction;

(d) any civil or military activities, or potential civil or military activities, relating to the jurisdiction that may present a potential significant risk of harm to any person participating, in any capacity, in an international surrogacy undertaken in the jurisdiction;

(e) the law of the jurisdiction relating to medical professionals undertaking surrogacy in the jurisdiction, in particular whether there is a regulatory authority (howsoever described) exercising oversight of such professionals and the nature and degree of such oversight;

(f) the law of the jurisdiction relating to persons acting as intermediaries (if any) in the jurisdiction, in particular whether there is a regulatory authority (howsoever described) exercising oversight of such intermediaries and the nature and degree of such oversight;

(g) the extent to which the law of the jurisdiction—

(i) provides for the rights of pregnant women, including surrogate mothers, as regards their health, privacy and bodily autonomy,

(ii) makes no distinction, as regards the rights referred to in *subparagraph (i)*, between pregnant women who are not surrogate mothers and pregnant women who are surrogate mothers, and

(iii) is enforced as regards the rights referred to in *subparagraph (i)*.

(3) Subject to *subsection (4)*, the AHRRA may, after consultation with the Minister and the Minister for Foreign Affairs, by order, revoke the approval under *subsection (1)* of a surrogacy jurisdiction specified in the order, with effect from a date specified in the order for the purpose, if, at a subsequent time, the AHRRA considers that, if that jurisdiction were not so approved and having regard to the matters specified in *subsection (2)* for the purposes of *subsection (1)*, such approval would not be appropriate in all the circumstances of the case.

(4) The revocation under *subsection (3)* of the approval of a surrogacy jurisdiction under *subsection (1)* shall not affect an international surrogacy, undertaken in that jurisdiction, the subject of a surrogacy agreement (SJ) that has been approved under *section 90* before the date, specified in the order concerned under *subsection (3)*, on which that revocation takes effect.

(5) For the avoidance of doubt, it is hereby declared that the revocation under *subsection (3)* of the approval under *subsection (1)* of a surrogacy jurisdiction shall not be construed to prevent that jurisdiction from again being so approved.

Chapter 2

General provisions relating to international surrogacy

Definition – *Chapter 2*

82. In this Chapter, "AHR information document (SJ)", in relation to a type of AHR treatment (SJ), means the document published on the AHRRA's website pursuant to *section 83(1)* and that relates to that type of AHR treatment (SJ).

AHR information document (SJ)

83. (1) Subject to *subsection (2)* and *section 84*, where the AHRRA approves under *section 81(1)* a surrogacy jurisdiction as a jurisdiction in which an international surrogacy may be undertaken, it shall, on or before the date specified in the order concerned under *section 81(1)* as the date on which such approval shall take effect, prepare and publish on its website a document, for each type of AHR treatment (SJ) and in the official language (or one of the official languages) of that jurisdiction and, if that language is not English, also in English and Irish, setting out the basic information that it is satisfied that a person seeking, or potentially seeking, such type of AHR treatment (SJ) ought to know about such treatment.

(2) Where the official language (or one of the official languages) of an approved surrogacy jurisdiction is not English, the AHRRA may publish an AHR information document (SJ) in English and Irish only if it is satisfied that the document is relevant only to the intending parents (or, in the case of a single intending parent, that intending parent) concerned.

Provisions supplementary to *section 83*

84. (1) This section applies without prejudice to the generality of *section 83*.

(2) The AHR information document (SJ) for a type of AHR treatment (SJ) to be provided pursuant to a surrogacy agreement (SJ) shall inform the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) involved of the following matters in relation to the law of the State:

(a) that the surrogate mother will be the mother of any child born as a result of AHR treatment (SJ) provided pursuant to the agreement;

(b) that the surrogate mother's husband (if any) under a subsisting marriage will not be presumed to be the father of any child born as a result of AHR treatment (SJ) provided pursuant to the agreement;

(c) that the intending parents (or, in the case of a single intending parent, that intending parent) will not, without a parental order, be the parents (or, in the case of a single intending parent, the parent) of any child born as a result of AHR treatment (SJ) provided pursuant to the agreement other than in the case of an intending parent who provided the sperm used in such treatment;

(d) where a relevant donation (SJG) will be used to create the embryo to be transferred to the surrogate mother pursuant to the agreement, the relevant donor (SJG) will not be a parent of the child;

(e) that the information specified in *section 99(1)* will be recorded in the National Surrogacy Register in respect of—

(i) the surrogate mother,

(ii) the intending parents (or, in the case of a single intending parent, that intending parent),

(iii) any child born as a result of AHR treatment (SJ) provided pursuant to the agreement, and

(iv) where a relevant donation (SJG) was used to create the embryo that was transferred pursuant to the agreement, the relevant donor (SJG);

(f) that any person born as a result of AHR treatment (SJ) provided pursuant to the agreement may, in accordance with the provisions of *Chapter 3*—

(i) access the information pertaining to each party to the agreement recorded on the National Surrogacy Register, and

(ii) seek to contact any party to the agreement;

(g) that, where a relevant donation (SJG) will be used to create the embryo to be transferred to the surrogate mother pursuant to the agreement, the relevant donor (SJG) is entitled to obtain from the National Surrogacy Register the information specified in *section 107(2)*;

(h) that the intending parents (or, in the case of a single intending parent, that intending parent) have (or has) an obligation under *section 99(3)* to cause the information specified in that section to be given by the AHR treatment provider (SJ) to the AHRRA;

(i) having regard to the child's right to know his or her origins, that it is desirable that—

(i) the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) keep updated, in accordance with *section 111*, the information in relation to him or her that is recorded on the National Surrogacy Register, and

(ii) the intending parents (or, in the case of a single intending parent, that intending parent) inform the child, at an appropriate age, that he or she was born as a result of AHR treatment (SJ) provided pursuant to the agreement;

(j) the right of the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) to revoke, or revoke and replace, his or her *section 87* consent.

Safety of children - AHRRA

85. (1) The AHRRA shall not approve under *section 90* a surrogacy agreement (SJ) unless it is satisfied, based on the information available to the AHRRA, that the relevant person, and each other relevant person, does not present a potential significant risk of harm or neglect to—

(a) any child that may be born as a result of AHR treatment (SJ) to be provided pursuant to the agreement, or

(b) any other child.

(2) (a) Subject to *paragraph (b)*, the AHRRA shall, for the purposes of *subsection (1)*, make a request in writing to each relevant person to complete and submit to the AHRRA within the period specified in the request (being a period reasonable in all the circumstances of the case), a return in the specified form (in this section referred to as a "*section 85* return") attached to the request.

(b) Subject to *paragraph (c)* and *subsection (6)*, the Minister—

(i) shall, as soon as is practicable after the commencement of this subsection, by regulations specify the information, or information falling within a class of information specified in the regulations, that a *section 85* return may require a relevant person, or a relevant person falling within a class of relevant persons specified in the regulations, to provide, and

(ii) may by regulations specify the circumstances (if any) in which such information may be further disclosed by the AHRRA in addition to further disclosures required by law.

(c) Where the Minister makes regulations under *paragraph (b)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following:

(i) that, in determining the information to be specified, the paramount consideration is the safety of any child referred to in *subsection (1)*;

(ii) that the information sought needs to be appropriate and proportionate to satisfying the AHRRA as referred to in *subsection (1)*;

(iii) that any information sought which may reasonably be regarded as sensitive information is protected from any unnecessary further disclosure by the AHRRA except where such further disclosure is required by law.

(d) The AHRRA shall, in specifying different forms of *section 85* returns, ensure that the forms are consistent with the regulations made under *paragraph (b)*.

(3) Subject to *subsection (4)*, where the AHRRA is not satisfied after having assessed the *section 85* returns concerned, as referred to in *subsection (1)*, the AHRRA shall, as soon as is practicable after the expiration of the period concerned referred to in *subsection (2)(a)*, by notice in the specified form (in this section referred to as a "*section 85* notice") given to each relevant person, state the reasons why the AHRRA is not so satisfied.

(4) For the purposes of *subsection (3)*, the AHRRA may also assess information obtained otherwise than from a relevant person.

(5) The AHRRA shall retain the original or a copy of—

(a) a *section 85* return,

(b) a *section 85* notice,

(c) information referred to in *subsection (4)* which is in writing, and

(d) any note made in writing, by the AHRRA, of information referred to in *subsection (4)* which is not in writing,

for not less than 30 years after receiving the return, issuing the notice, obtaining the information or making the note, as the case may be.

(6) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the AHRRA.

(7) In this section, "relevant person", in relation to any child that may be born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ), means—

(a) in the case of two intending parents, each of the parents,

(b) in the case of a single intending parent, that parent and the parent's spouse, civil partner or cohabitant (if any), and

(c) in the case of a surrogate mother, that mother and her spouse, civil partner or cohabitant (if any).

AHR counselling (SJ)

86. The AHRRA shall not approve under *section 90* a surrogacy agreement (SJ) attached to a *section 90* application unless it is satisfied that AHR counselling (SJ) has been given to the intending parents (or, in the case of a single intending parent, that intending parent) and the surrogate mother concerned.

Consent - international surrogacy

87. (1) Subject to *subsection (2)*, the AHRRA shall not approve under *section 90* a surrogacy agreement (SJ) attached to a *section 90* application unless it is satisfied that consent in the specified form (in this Part referred to as "*section 87* consent") to the provision of AHR treatment (SJ) (including every stage of such treatment) pursuant to the agreement to a person has been given by—

(a) that person, and

(b) each relevant person.

(2) A person's *section 87* consent shall not be considered valid unless—

(a) it was given voluntarily,

(b) the person had the capacity to give such consent at the time it was given,

(c) *section 86* has been complied with, and

(d) it can be revoked, or revoked and replaced, by the person giving the consent.

(3) In this section, "relevant person", in relation to a person seeking AHR treatment (SJ), means, if such person is an intending parent, the other intending parent (if any).

Provisions supplementary to *section 87*

88. (1) This section applies without prejudice to the generality of *section 151*.

(2) The specified form of a *section 87* consent shall require the intending parents (or, in the case of a single intending parent, that intending parent) and the surrogate mother to—

(a) confirm that he or she has received the AHR information document (SJ) concerned,

(b) confirm that he or she has received the AHR counselling (SJ) required under *section 86*,

(c) confirm that he or she has received the legal advice required by *section 98*,

(d) consent to the recording of information required under *section 99*, and

(e) confirm that he or she understands that a person born as a result of AHR treatment (SJ) provided pursuant to the surrogacy agreement (SJ) may, in accordance with the provisions of *Chapter 3*—

(i) access the information specified in *section 99(1)*, or

(ii) seek to contact any or all parties to the surrogacy agreement.

(3) The specified form of a *section 87* consent shall, where a relevant donation (SJG) is proposed to be used to create an embryo to be transferred pursuant to a surrogacy agreement (SJ), require the relevant donor (SJG) to—

(a) confirm that he or she understands that, under the law of the State—

(i) he or she shall not be a parent of any child born as a result of such use of such donation,

(ii) the information specified in *section 99(1)* in relation to him or her shall be recorded on the National Surrogacy Register,

(iii) the child, when he or she becomes an adult (AHR), may access the information specified in *section 109(2)* and seek to contact the donor,

(iv) the information that the donor is entitled to obtain from the National Surrogacy Register is restricted to the information specified in *section 107(2)*,

(v) having regard to the child's right to know his or her origins, it is desirable that the donor keep updated, in accordance with *section 111*, the information in relation to him or her that is recorded on the National Surrogacy Register, and

(vi) he or she has the right to revoke, or revoke and replace, such consent at any stage before the formation of the embryo,

(b) consent to the recording of information required under *section 99(1)*, and

(c) confirm that he or she understands that a person born as a result of such use of such donation may, in accordance with *Chapter 3*—

(i) access the information specified in *section 99(1)* in respect of the donor, and

(ii) seek to contact the donor.

CHAPTER 3

Permitted international surrogacy

Permitted international surrogacy

89. (1) The surrogacy the subject of a surrogacy agreement (SJ) is a permitted international surrogacy only where the surrogacy is an international surrogacy that has been approved under *section 90* by the AHRRA before any AHR treatment (SJ) has been provided pursuant to the agreement and the surrogacy complies with all of the following:

(a) the surrogacy jurisdiction is an approved surrogacy jurisdiction;

(b) the surrogate mother meets the requirements specified in *section 91*;

(c) the intending parents together as a couple meet (or, in the case of a single intending parent, that intending parent meets) the requirements specified in *section 92*;

(d) the AHR treatment provider (SJ) gives an undertaking in the specified form, before the *section 90* application is made—

(i) that the AHR treatment (SJ) to be provided pursuant to the agreement will, upon each occasion on which it is provided, only involve the transfer of a single embryo to the surrogate mother,

(ii) where an embryo proposed to be transferred pursuant to the agreement was or will be created using a relevant donation (SJG), that the provider will not effect the transfer unless the *section 87* consent of the relevant donor (SJG) permits the use of such donation pursuant to such an agreement, and

(iii) that the provider will not disclose the personal details of a relevant donor (SJG) referred to in *subparagraph (ii)* to the intending parents (or, in the case of a single intending parent, that intending parent);

(e) it is not a commercial surrogacy agreement (SJ) referred to in *section 93*;

(f) the personal details of the intending parents (or, in the case of a single intending parent, the personal details of that intending parent), the surrogate mother, the relevant donor (SJG) (if any) and any child born as a result of AHR treatment

(SJ) provided pursuant to the agreement are recorded in accordance with *sections 99* and *105*;

(g) without prejudice to the generality of *section 80*, the agreement meets all the requirements for a surrogacy agreement to be undertaken in the surrogacy jurisdiction concerned.

(2) Subject to *subsections (4)* and *(5)*, a person shall not knowingly provide a technical, professional or medical service that is to give effect or further effect to any agreement or other arrangement which purports to relate to a permitted international surrogacy, but does not in fact relate to a permitted international surrogacy.

(3) Without prejudice to the generality of *subsection (2)*, a person shall not—

(a) knowingly participate in any agreement or other arrangement referred to in that subsection, or

(b) induce or attempt to induce another person to participate in any such agreement or other arrangement.

(4) For avoidance of doubt, neither *subsection (2)* nor *(3)* shall be construed as prohibiting—

(a) the provision of consular assistance and services, including the issuing of travel documents, by or on behalf of the State, or

(b) the giving, by a legal practitioner or legal practitioner (SJ), of legal advice in relation to any agreement or other arrangement—

(i) referred to in *subsection (2)*, or

(ii) which is the equivalent, in another jurisdiction, of any such agreement or arrangement.

(5) Subject to *section 80*, nothing in this section shall be construed as prohibiting a person from providing medical treatment to a woman after she is pregnant if the person is, at the time of providing such treatment, lawfully entitled to provide the treatment in the State.

Approval of surrogacy agreements (SJ)

90. (1) Intending parents (or, in the case of a single intending parent, that intending parent) shall not participate in a surrogacy agreement (SJ) other than a surrogacy agreement (SJ) that has been approved under *subsection (3)*.

(2) (a) Intending parents (or, in the case of a single intending parent, that intending parent) may make an application in the specified form (in this Part referred to as a "*section 90* application"), accompanied by the specified fee, to the AHRRA for the AHRRA's approval under *subsection (3)* of the completed surrogacy agreement (SJ) attached to the application.

(b) Without prejudice to the generality of *section 151*—

(i) the specified form of a surrogacy agreement (SJ) shall require, in the case of two intending parents, each of them to indicate that he or she understands that, should the agreement be approved under this section but he or she dies before the embryo transfer concerned has been effected, such approval will be treated as revoked from and including the date of death, and

(ii) the specified form of a *section 90* application shall require—

(I) such evidence as is specified in the form as is reasonably required by the AHRRA to enable it to determine whether or not the provisions of *sections 86*, *87*, *88(2)*, *88(3)*, *paragraphs (b)*, *(c)*, *(d)*, *(e)* and *(g)* of *section 89(1)* and *paragraph (c)* of *section 92(3)* have been complied with, and

(II) if an intermediary is to be used, an estimate of the relevant fees referred to in *section 97(b)*.

(3) Subject to *sections 112* and *113*, the AHRRA shall determine a *section 90* application by—

(a) subject to *subsection (4)*, giving notice in writing to the applicant approving the surrogacy agreement (SJ) attached to the application where the AHRRA is satisfied that—

(i) the surrogacy the subject of the agreement is a permitted international surrogacy, and

(ii) the agreement has been correctly (including accurately) completed and, without prejudice to the generality of the foregoing—

(I) the agreement contains a declaration by the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) that, to the best of their knowledge and belief, the surrogacy the subject of the agreement is a permitted international surrogacy, and

(II) subject to *section 151(4)*, the agreement has been signed by—

(A) the surrogate mother, and

(B) the intending parents (or, in the case of a single intending parent, that intending parent),

or

(b) in any other case, giving notice in writing to the applicant refusing to approve the surrogacy agreement (SJ) attached to the application and stating in the notice the reasons for such refusal.

(4) (a) Subject to *paragraph (b)*, the approval under *subsection (3)* of a surrogacy agreement (SJ) shall expire when the period of two years has elapsed from the date of such approval.

(b) The AHRRA shall specify in the approval under *subsection (3)* of a surrogacy agreement (SJ) a shorter period than the two years referred to in *paragraph (a)* where that is necessary in order to ensure that a specified upper age limit is complied with.

(5) Where the AHRRA is minded to determine a *section 90* application by refusing to approve the surrogacy agreement (SJ) attached to the application, it shall, in the interests of procedural fairness, give a notice in writing to the applicant stating—

(a) that the AHRRA is so minded and stating the reasons why the AHRRA is so minded, and

(b) that the applicant may, if the applicant wishes to do so, within the period specified in the notice (being a period reasonable in all the circumstances of the case) provide, in view of those reasons only, supplementary material in the specified form to the AHRRA for the AHRRA's further consideration before making a determination under *subsection (3)* following the expiration of that period.

(6) For the avoidance of doubt, it is hereby declared that *subsection (5)* only applies once to the same *section 90* application.

(7) In the case of two intending parents, should a surrogacy agreement (SJ) be approved under this section but an intending parent dies before the embryo transfer concerned has been effected, such approval shall, by virtue of this subsection, be treated as revoked from and including the date of death, and the other provisions of this Act shall be construed accordingly.

Surrogate mothers - international surrogacy

91. (1) Subject to *subsection (2)*, a woman may act as a surrogate mother under a surrogacy agreement (SJ) only if—

(a) she has previously given birth to a child before entering into the agreement,

(b) she has attained the age of 25 years before entering into the agreement,

(c) there is a report from the AHR counsellor (SJ) who gave her the AHR counselling (SJ) referred to in *paragraph (c)* of the definition of "AHR counselling (SJ)" in *section 79* that she is suitable to act as a surrogate mother, and

(d) she has been assessed and approved as suitable to act as a surrogate mother by an appropriate medical specialist or a medical practitioner (within the meaning of section 2 of the Act of 2007) who is, in the surrogacy jurisdiction concerned, the equivalent of such specialist.

(2) (a) A surrogacy agreement (SJ) is not a permitted international surrogacy if the surrogate mother has, before entering into such agreement, been a surrogate mother upon more than one occasion, and where on at least two such occasions a clinical pregnancy was achieved.

(b) In *paragraph (a)*—

"clinical pregnancy" means a pregnancy not less than six weeks in gestation and in respect of which there is evidence of a gestational sac having been identified through an ultrasound scan;

"surrogate mother" includes, in addition to a surrogate mother as defined in *section 2*, a woman who, before the commencement of this subsection, has entered into an agreement with the intending parents concerned (or, in the case of a single intending parent, that intending parent) under which she has agreed to attempt to become pregnant, whether or not by the use of her own egg, and, if successful, to transfer the parentage of any child born as a result of the pregnancy to the intending parents (or, in the case of a single intending parent, that intending parent).

Intending parents - international surrogacy

92. (1) A surrogacy agreement (SJ) may be entered into by—

(a) two intending parents jointly, or

(b) a single intending parent.

(2) Any intending parent shall have attained the age of 21 years before the *section 90* application concerned is made.

(3) Every surrogacy agreement (SJ) shall—

(a) involve an embryo which was or will be created using the gametes of either or both of the intending parents (or, in the case of a single intending parent, the gamete of that intending parent),

(b) require that at least one of the intending parents (or, in the case of a single intending parent, that intending parent) has objectively, and in all the circumstances of the case, a reasonable expectation of living to parent a child born as a result of AHR treatment (SJ) provided pursuant to the agreement until that child has attained the age of 18 years,

(c) involve the following, as appropriate:

(i) in the case of a male and a female as the intending parents—

(I) the female is unable to conceive a child, including as a result of the provision (including the potential provision) of AHR treatment,

(II) the female is unable to gestate a pregnancy to birth,

(III) the female is unlikely to survive a pregnancy or giving birth, or

(IV) the female is likely to have her health significantly adversely affected by a pregnancy or giving birth;

(ii) in the case of two females as the intending parents, each of them—

(I) is unable to conceive a child, including as a result of the provision (including the potential provision) of AHR treatment,

(II) is unable to gestate a pregnancy to birth,

(III) is unlikely to survive a pregnancy or giving birth, or

(IV) is likely to have her health significantly adversely affected by a pregnancy or giving birth;

(iii) the intending parents are both male;

(iv) in the case of a single intending parent, the intending parent is a male or, if a female, she—

(I) is unable to conceive a child, including as a result of the provision (including the potential provision) of AHR treatment,

(II) is unable to gestate a pregnancy to birth,

(III) is unlikely to survive a pregnancy or giving birth, or

(IV) is likely to have her health significantly adversely affected by a pregnancy or giving birth.

(4) The intending parents (or, in the case of a single intending parent, that intending parent) shall give an undertaking in the specified form, before the *section 90* application concerned is made, that he or she shall—

(a) take all necessary steps to provide care and protection to, prevent harm or neglect to, and ensure the welfare of, any child born as a result of AHR treatment (SJ) provided pursuant to the surrogacy agreement (SJ), and

(b) make a *section 102* application in respect of any child born as a result of AHR treatment (SJ) provided pursuant to the surrogacy agreement (SJ).

(5) An intending parent who provided a gamete used to create the embryo to be transferred pursuant to the surrogacy agreement (SJ) shall submit evidence to the AHR treatment provider (SJ) concerned that he or she has undergone, in the State, the testing required for donors of reproductive cells under Regulation 11 of the Regulations of 2006 before the embryo transfer is undertaken and such evidence shall include the results of such testing.

Prohibition of commercial surrogacy - international surrogacy

93. (1) Subject to *subsection (2)*, a surrogacy agreement (SJ) is a commercial surrogacy agreement (SJ) if any person—

(a) receives or agrees to receive any payment or other reward in consideration of entering into or giving effect to the agreement,

(b) offers, makes or gives, or agrees to offer, make or give, any payment or other reward in consideration of entering into or giving effect to the agreement, or

(c) receives, makes or gives, or agrees to receive, make or give, any payment or other reward in consideration of facilitating the entering into or giving effect to the agreement.

(2) Any reference to payment or other reward in *subsection (1)* shall not include fees paid for legal advice referred to in *section 89(4)* or *98* or a surrogate mother's reasonable expenses as construed in accordance with *section 94*.

(3) A person shall not do an act which falls within *paragraph (a)*, *(b)* or *(c)* of *subsection (1)*.

Surrogacy agreements (SJ) and reasonable expenses

94. (1) An obligation under a surrogacy agreement (SJ) to pay or reimburse the surrogate mother's reasonable expenses is enforceable if the agreement was made before the transfer of the embryo to the surrogate mother.

(2) For the purposes of this Part, the reasonable expenses are the surrogate mother's reasonable expenses associated with any of the following matters that are part of the surrogacy agreement (SJ):

(a) becoming or trying to become pregnant;

(b) pregnancy or birth;

(c) entering into and giving effect to the agreement.

(3) The reasonable expenses of a surrogate mother associated with the pregnancy or birth referred to in *subsection (2)(b)* include the following:

(a) any pre-natal or post-natal medical expenses associated with the pregnancy or birth;

(b) any travel or accommodation expenses associated with the pregnancy or birth;

(c) the expense of reimbursing the surrogate mother for any net loss of income entailed in being the surrogate mother but only for the following periods:

(i) a period of not more than 6 months during which the birth happened or was expected to happen;

(ii) any other period during the pregnancy or thereafter, not exceeding 12 months in total, when the surrogate mother was unable to work on medical grounds related to pregnancy or birth.

(4) The reasonable expenses associated with entering into and giving effect to a surrogacy agreement (SJ) referred to in *subsection (2)(c)* include the following:

(a) the expenses associated with the surrogate mother receiving AHR counselling (SJ) in relation to the agreement (whether before or after she entered into the agreement);

(b) the expenses associated with the surrogate mother receiving independent legal advice in relation to the agreement or a parental order related to the agreement;

(c) the expenses, including the reasonable travel and accommodation expenses, associated with the surrogate mother being a party to proceedings in relation to making a parental order related to the agreement.

(5) Subject to *subsection (8)*, the reasonable expenses of the surrogate mother under any of *subsections (2)* to *(4)* shall include any other matters that may be prescribed.

(6) Where the Minister prescribes matters under *subsection (5)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to reasonable expenses that may be incurred by the surrogate mother in relation to any one or more than one of the following:

(a) maternity clothing;

(b) paid housework or childcare undertaken by persons other than the surrogate mother and her spouse, civil partner or cohabitant (if any);

(c) pregnancy aids that assist in the comfort and well-being of the surrogate mother;

(d) any other expenses typically incurred in the course of a pregnancy.

(7) An expense is reasonable under any of *subsections (2)* to *(5)* only if—

(a) the expense is actually incurred, and

(b) the amount of the expense can be verified by receipts or other documentation.

(8) On and after the establishment day, the Minister shall not prescribe matters under *subsection (5)* except after consultation with the AHRRA.

Non-enforceability of surrogacy agreements (SJ)

95. A surrogacy agreement (SJ) shall not be enforceable by or against any person otherwise than as provided for in *section 94*.

Advertisements for surrogacy - international surrogacy

96. (1) A person shall not publish, or cause to be published, any advertisement, statement, notice or other material that—

(a) states or implies that a person is or may be willing to enter into or arrange a surrogacy agreement (SJ),

(b) seeks a person willing to act as a surrogate mother,

(c) states or implies that a person is or may be willing to act as a surrogate mother, or

(d) is intending or is likely to induce a person to act as a surrogate mother.

(2) In this section, "publish" means to disseminate or provide access, by any means, to the public or a section of the public.

Role of intermediaries

97. Notwithstanding *sections 93* and *96*, the services of an intermediary in a surrogacy jurisdiction may be availed of by intending parents (or, in the case of a single intending parent, that intending parent) in a permitted international surrogacy only if—

(a) the provision of those services by that intermediary in that jurisdiction to those intending parents (or, in the case of a single intending parent, that intending parent) is so provided in accordance with the law of that jurisdiction, and

(b) the fees paid to the intermediary for the provision of those services to those intending parents (or, in the case of a single intending parent, that intending parent) (in this paragraph referred to as the "relevant fees") are reasonable having regard to all the circumstances of the case, including—

(i) the nature of those services,

(ii) the level of fees paid in that jurisdiction for services (if any) comparable to those services, and

(iii) where a legal, medical or counselling service (or any combination thereof) related to the permitted international surrogacy is provided in that jurisdiction to those intending parents (or, in the case of a single intending parent, that intending parent) through the intermediary, the relevant fees as a proportion of the combination of the relevant fees and the professional fees paid for the legal, medical or counselling service (or, as the case may be, the combination of the professional fees paid for the legal, medical and counselling services).

Requirement for independent legal advice - international surrogacy

98. The surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) shall have received independent legal advice from both a legal practitioner and a legal practitioner (SJ) about the legal implications of the surrogacy agreement (SJ) before the *section 87* consent concerned is given.

Information to be provided to and recorded by AHRRA in relation to surrogacy agreements (SJ)

99. (1) The intending parents (or, in the case of a single intending parent, that intending parent) shall cause the AHR treatment provider (SJ), for each embryo transfer undertaken by the provider pursuant to a surrogacy agreement (SJ), to acquire and retain a record of the following:

(a) in the case of the surrogate mother:

(i) her name;

(ii) her date and place of birth;

(iii) her nationality;

(iv) her address and contact details;

(b) in the case of each intending parent:

(i) his or her name;

(ii) his or her date of birth;

(iii) whether or not he or she provided a gamete used under the agreement;

(iv) his or her address and contact details;

(c) in the case of the relevant donor (SJG) (if any):

(i) his or her name;

(ii) his or her date and place of birth;

(iii) his or her nationality;

(iv) the date on which, and the AHR treatment facility, AHR treatment facility (SJ), or other like facility, as appropriate, at which he or she made his or her relevant donation (SJG);

(v) his or her contact details;

(d) the date on which, and the AHR treatment facility (SJ) at which, the embryo transfer was undertaken;

(e) the information given to the AHR treatment provider (SJ) under *subsection (2)*.

(2) Where an AHR treatment (SJ) has been provided pursuant to a surrogacy agreement (SJ) by an AHR treatment provider (SJ), the intending parents (or, in the case of a single intending parent, that intending parent) shall cause the surrogate mother, as soon as is practicable after the surrogate mother becomes aware of the fact, to inform the provider of the following:

(a) whether the embryo transfer resulted in a pregnancy;

(b) where the embryo transfer has resulted in pregnancy, the date on which the surrogate mother is expected to give birth;

(c) where *paragraph (b)* applies, after the pregnancy of the surrogate mother has come to an end—

(i) whether the pregnancy resulted in the birth of a live child, and

(ii) where the pregnancy resulted in the birth of a live child, the name, date, place of birth, sex and address of the child.

(3) The intending parents (or, in the case of a single intending parent, that intending parent) shall, for each embryo transfer undertaken by the AHR treatment provider (SJ) pursuant to a surrogacy agreement (SJ), cause the provider to give notice in writing in the specified form to the AHRRA of the following:

(a) that an embryo transfer pursuant to a surrogacy agreement (SJ) has been undertaken at the AHR treatment facility (SJ);

(b) the information that has been recorded in accordance with *subsection (1)*.

(4) Subject to *subsection (2)*, the intending parents (or, in the case of a single intending parent, that intending parent) shall cause the AHR treatment provider (SJ) to give to the AHRRA the information required under *subsection (3)* in relation to each embryo

transfer undertaken pursuant to a surrogacy agreement (SJ) at the AHR treatment facility (SJ) on each of the following dates:

(a) on a date that is not later than six months after the provision of the embryo transfer concerned;

(b) on a date that is not earlier than 12 months and not later than 13 months after the undertaking of the embryo transfer concerned.

(5) (a) Where the intending parents (or, in the case of a single intending parent, that intending parent) becomes aware of an error in any information given under this section to the AHRRA, the intending parents (or intending parent) shall, without delay, inform the AHRRA of the error and give the AHRRA the corrected information.

(b) Where the intending parents (or, in the case of a single intending parent, that intending parent) becomes aware of a failure to give information to the AHRRA required by this section to be so given, the intending parents (or intending parent) shall, without delay, cause the AHR treatment provider (SJ) concerned to inform the AHRRA of the failure and give the AHRRA the information.

(6) Where the intending parents (or, in the case of a single intending parent, that intending parent) have (or has) reasonable grounds to believe that the surrogate mother has failed to give the AHR treatment provider (SJ) the information referred to in *subsection (2)*, such steps shall be taken by the intending parents (or intending parent), or the intending parents (or intending parent) shall cause the provider to take such steps, as are reasonable in all the circumstances of the case to—

(a) contact the surrogate mother to ascertain whether or not there has been such a failure, or

(b) if there has been such a failure, encourage the surrogate mother to comply with that subsection.

Provisions applicable in case of relevant donation (SJG)

100. (1) Where a relevant donation (SJG) is used to create the embryo transferred pursuant to a surrogacy agreement (SJ), the relevant donor (SJG)—

(a) is not the parent of a child born as a result of AHR treatment (SJ) provided pursuant to such use of such donation, and

(b) has no parental rights or duties in respect of the child.

(2) On and after the commencement of this section, a reference in any enactment to a mother, father or parent of a child who was born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ) under which the embryo transferred was created using a relevant donation (SJG) shall be construed as not including the relevant donor (SJG).

Consent to child born as result of AHR treatment (SJ) provided pursuant to surrogacy agreement (SJ) to live with intending parents

101. (1) Subject to *subsection (2)*, where a child is born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ), the child may reside with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) only if the surrogate mother consents in the specified form thereto.

(2) *Subsection (1)* shall not apply where the surrogate mother—

(a) is deceased, or

(b) cannot be located after reasonable efforts have been made to find her.

Application for parental order - international surrogacy

102. (1) (a) Subject to *subsections (2)* to *(7)*, an application (in this Part referred to as a "*section 102* application") may be made to the court for a parental order in respect of a child who was born as a result of AHR treatment provided pursuant to a permitted international surrogacy.

(b) A *section 102* application shall be accompanied by—

(i) the required particulars specified in Part 2C of the First Schedule to the Act of 2004,

(ii) subject to *subparagraph (iii)*, if an intermediary was used, particulars of the relevant fees referred to in *section 97(b)*, and

(iii) particulars of the expenses referred to in *section 94* (and regardless of whether or not they form part of the relevant fees referred to in *subparagraph (ii)*).

(2) A *section 102* application may only be made by the intending parents or one of them (or, in the case of a single intending parent, that intending parent).

(3) The following shall be parties to a *section 102* application:

(a) the intending parents (or, in the case of a single intending parent, that intending parent);

(b) the surrogate mother;

(c) the child who was born as a result of AHR treatment (SJ) provided pursuant to the permitted international surrogacy.

(4) A *section 102* application shall be accompanied by evidence that—

(a) the embryo from which the child the subject of the application was born—

(i) was created using a gamete from not less than one of the intending parents (including a deceased such parent referred to in *section 90(2)(b)(i)*) of that child (or, in the case of a single intending parent of that child, was created using a gamete from that intending parent), and

(ii) was not created using an egg from the surrogate mother,

and

(b) the child resides with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) named on the application.

(5) Subject to *subsection (6)*, a *section 102* application shall be made not earlier than 28 days, and not later than six months, after the day on which the child was born.

(6) The court may extend the time referred to in *subsection (5)* if it is satisfied that—

(a) there are exceptional circumstances justifying the extension, and

(b) it is in the best interests of the child to do so.

(7) A *section 102* application in respect of a child shall only be made if any living sibling who was born as a result of the same pregnancy is also the subject of the application.

(8) Without prejudice to the generality of *section 103(6)* and *(7)*, the AHRRA and the Attorney General shall be served with a copy of the *section 102* application.

Grant of parental order - international surrogacy

103. (1) (a) Subject to *paragraph (b)* and *subsections (2)* to *(5)*, the court may grant an order pursuant to a *section 102* application if it is satisfied that—

(i) subject to *section 81(4)*, the international surrogacy meets all of the requirements specified in *section 89(1)* and that the undertaking referred to in *section 89(1)(d)* has been complied with,

(ii) the intending parents (or, in the case of a single intending parent, that intending parent) named in the application consent (or, in the case of a single intending parent, consents) to the granting of the order,

(iii) the surrogate mother consents to the granting of the order,

(iv) at the time of the hearing of the application, the child continues to reside with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) named on the application, and

(v) the granting of the order is in the best interests of the child.

(b) A parental order shall include the particulars referred to in *section 102(1)(b)(i)*.

(2) (a) The court may waive a requirement that the child (as indicated in *paragraph (b)* of the definition of "surrogacy jurisdiction") has been born in the approved surrogacy jurisdiction concerned if it is satisfied that there are exceptional circumstances justifying such waiver.

(b) The court may waive a requirement under *subsection (1)* for consent from an intending parent, in the case of two intending parents, if he or she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find him or her, or

(iii) lacks the capacity to make a decision in that regard.

(c) The court may waive a requirement under *subsection (1)* for consent from the surrogate mother if she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find her, or

(iii) lacks the capacity to make a decision in that regard.

(3) In determining, under *subsection (1)(a)(v)*, what is in the best interests of the child, the court shall have regard to all the circumstances that it considers relevant to the child who is the subject of the *section 102* application concerned, including—

(a) the child's age and maturity,

(b) the physical, psychological and emotional needs of the child,

(c) the likely effect of the granting of the parental order on the child,

(d) the child's social, intellectual and educational needs,

(e) the child's upbringing and care,

(f) the child's relationship with his or her intending parents (or, in the case of a single intending parent, that intending parent), and

(g) any other particular circumstances pertaining to the child.

(4) The court shall, in relation to its consideration of a *section 102* application and in so far as is practicable, in respect of any child who is capable of forming his or her own views, ascertain those views and give them due weight having regard to the age and maturity of the child.

(5) Proceedings under this section shall be heard otherwise than in public.

(6) At any time on or after the court receives a *section 102* application and a relevant authority is not already a party to the proceedings, the court may, at any stage of the proceedings, of its own motion or on the application of any party to the proceedings, direct that all necessary papers in the matter be sent to the relevant authority.

(7) Where, at any time on or after the court receives a *section 102* application, a relevant authority requests to be made a party to the proceedings, the court shall order that the relevant authority be added as a party, and, whether or not the relevant authority so requests, the relevant authority may argue before the court any question in relation to the application which the court considers necessary to have fully argued and take such other steps in relation thereto as the relevant authority thinks necessary or expedient.

(8) The court may direct that notice of a *section 102* application shall be given to such other persons as the court thinks fit and where notice is so given to any person the court may, either of its own motion or on the application of that person or any party to the proceedings, order that that person shall be added as a party to those proceedings.

(9) In this section, "relevant authority" means—

(a) the Attorney General, or

(b) the AHRRA.

Effect of parental order - international surrogacy

104. (1) Where the court grants a parental order in respect of a child—

(a) the child becomes the child of the intending parents (or, in the case of a single intending parent, that intending parent) named in the order,

(b) subject to *paragraph (e)*, the child is no longer the child of any person not named as a parent in the order,

(c) the child will be considered, with regard to the rights and duties of parents and children in relation to each other, as the child of the intending parents (or, in the case of a single intending parent, that intending parent) named in the order,

(d) the surrogate mother of the child will lose all parental rights and is freed from all parental duties in respect of the child, and

(e) the order does not affect any order previously made under section 35 of the Status of Children Act 1987 in respect of an intending parent of the child.

(2) Where the court grants a parental order in respect of a child, it shall, within 14 days immediately following such grant, give, or cause to be given, a copy of the order to the AHRRA in order to allow the AHRRA to make an entry in the National Surrogacy Register under *section 105(2)(c)*.

(3) Where the court grants a parental order in respect of a child—

(a) born in the State, and

(b) the subject of a waiver referred to in *section 103(2)(a)*,

it shall, within 14 days immediately following such grant, give, or cause to be given, a copy of the order to *an tArd-Chláraitheoir* in order to allow *an tArd-Chláraitheoir* to make, or cause to be made, an entry, in the register of parental orders for surrogacy established and maintained under section 13(1)(n) of the Act of 2004, in accordance with section 30O(2) (inserted by *section 230(d)*) of that Act.

(4) Where the court refuses to grant a parental order in respect of a child, the court shall, within 14 days immediately following such refusal, give, or cause to be given, a notice in writing of the particulars of such refusal to the AHRRA in order to allow the AHRRA to make an entry in the National Surrogacy Register in accordance with *section 105(2)(c)*.

National Surrogacy Register - children born as result of AHR treatment (SJ)

105. (1) Subject to *subsection (2)*, the AHRRA shall make an entry in the National Surrogacy Register, in respect of each child born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ), as soon as is practicable after the AHRRA receives the particulars referred to in *subsection (2)*.

(2) An entry under *subsection (1)* shall contain the following particulars, where known:

(a) the information in respect of any child born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ), the surrogate mother, the intending parents (or, in the case of a single intending parent, that intending parent) and the relevant donor (SJG) (if any), as given to the AHRRA under *section 99(4)*;

(b) whether a *section 102* application has been made;

(c) where a *section 102* application has been made and determined, whether or not a parental order was granted and the date of the determination.

(3) Where the AHRRA has made an entry under *subsection (2)(a)* and no entry has been subsequently made under *subsection (2)(b)*, the AHRRA shall, not earlier than six months but not later than one year after first making the entry under *subsection (2)(a)*, contact the intending parents (or, in the case of a single intending parent, that intending parent) involved and the surrogate mother, where necessary, to determine if a *section 102* application has been made.

(4) Where the AHRRA becomes aware of updated information in relation to *subsection (2)*, or of an error in any information entered under that subsection, it shall, without delay—

(a) update or correct the information, as the case may be, and

(b) if the child referred to in that subsection was born in the State, contact *an tArd-Chláraitheoir*, where necessary, to inform him or her of such updating or correction, as the case may be.

Interaction of National Surrogacy Register and register of births - international surrogacy

106. (1) This section applies where a child (AHR) was born in the State and any of the following events (in this section referred to as a "relevant event") occurs:

(a) the AHRRA receives the copy of a parental order in respect of the child (AHR) from the court under *section 104(2)*;

(b) the AHRRA is notified under *section 104(4)* of a refusal of the court to grant a parental order in respect of the child (AHR).

(2) The AHRRA shall give notice in writing to *an tArd-Chláraitheoir* of the relevant event (which, in the case of a relevant event which falls within *subsection (1)(a)*, shall have a copy of the parental order attached to it) in order to enable *an tArd-Chláraitheoir* to note in the entry in the register of births in respect of the child (AHR) that the child was born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ) and that additional information is available from the National Surrogacy Register in respect of the child (AHR).

(3) The note referred to in *subsection (2)* may only be given to the child (AHR) on or after he or she becomes an adult (AHR).

(4) Where the child (AHR), on or after becoming an adult (AHR), applies for a copy of his or her birth certificate, *an tArd-Chláraitheoir* shall, when issuing a copy of the birth certificate, inform the adult (AHR) that further information relating to him or her is available on the National Surrogacy Register.

(5) In this section—

"birth certificate" means a document issued under section 13(4) of the Act of 2004 in respect of an entry in the register of births;

"register of births" means a register of births maintained by *an tArd-Chláraitheoir* under—

(a) section 13(1)(a) of the Act of 2004, or

(b) the repealed enactments (within the meaning of the Act of 2004).

Access to certain information from National Surrogacy Register and National Donor-Conceived Person Register - international surrogacy

107. (1) An adult (AHR) born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ) in which a relevant donation (SJG) was used, or the parent or guardian of a child (AHR) born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ) in which a relevant donation (SJG) was used, may make an application (in this section referred to as a "*section 107(1)* application") to the AHRRA for the AHRRA to give him or her the following information, where applicable:

(a) information in respect of the relevant donor (SJG) that is recorded on the National Surrogacy Register other than the donor's name, date of birth and contact details;

(b) the number of persons who have been born as a result of such use of such donation or, where applicable, a DAHR procedure or further DAHR procedure, or both, and the sex and year of birth of each of them.

(2) A relevant donor (SJG) may make an application (in this section referred to as a "*section 107(2)* application") to the AHRRA for the AHRRA to give him or her information from the National Surrogacy Register on the number of persons who have been born as a result of the use of his or her relevant donation (SJG) in AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ), and the sex and year of birth of each of them.

(3) A donor-conceived child who has attained the age of 16 years, or the parent or guardian of a donor-conceived child who has not attained the age of 16 years, may make an application (in this section referred to as a "*section 107(3)* application") to the AHRRA for the AHRRA to give him or her information on the number of persons who have been born as a result of the use in AHR treatment (SJ) of a relevant donation (SJG) by the same relevant donor (SJG) where such donation so used created the embryo that resulted in the donor-conceived child, and the sex and year of birth of each of them.

(4) Subject to *sections 112* and *113*, the AHRRA shall comply with a *section 107(1)* application, *section 107(2)* application or *section 107(3)* application by giving notice in writing to the applicant setting out the information sought by the applicant.

Information in respect of intending parents or surrogate mother to be given to adult (AHR) - international surrogacy

108. (1) An adult (AHR) born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ) may make an application (in this section referred to as a "*section 108* application") to the AHRRA to be given the name, date of birth and contact details of his or her intending parents (or, in the case of a single intending parent, that intending parent) or the surrogate mother, as the case may be, that are recorded on the National Surrogacy Register.

(2) Subject to *sections 112* and *113*, where the AHRRA receives a *section 108* application, it shall give the information sought by the *section 108* application to the adult (AHR).

Information in respect of relevant donor (SJG) to be provided to adult born as result of AHR treatment (SJ) provided pursuant to surrogacy agreement (SJ) in which embryo transferred was created using relevant donation (SJG)

109. (1) This section applies to an adult (AHR) who was born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ) in which the embryo transferred was created using a relevant donation (SJG).

(2) The adult (AHR) may make an application (in this section referred to as a "*section 109* application") to the AHRRA to be given the name, date of birth and contact details of the relevant donor (SJG) as recorded on the National Surrogacy Register.

(3) Subject to *sections 112* and *113*, where the AHRRA receives a *section 109* application, it shall give the information sought by the *section 109* application to the adult (AHR).

Information in respect of other persons that may be requested from AHRRA - international surrogacy

110. (1) This section applies to—

(a) a person (in this section referred to as the "relevant person") who is either—

(i) an adult (AHR) born as a result of AHR treatment (SJ) provided pursuant to a surrogacy agreement (SJ) in which the embryo transferred was created using a relevant donation (SJG), or

(ii) a donor-conceived child who has attained the age of 16 years,

and

(b) the relevant donor (SJG) of a relevant donation (SJG) that was used to create the embryo transferred pursuant to a surrogacy agreement (SJ) which resulted in the birth of a child (AHR).

(2) (a) The relevant person may make an application (in this section referred to as a "*section 110(2)* application") to the AHRRA to record on the National Surrogacy Register or the National Donor-Conceived Person Register, as the case may be, a statement of his or her name, date of birth and contact details, and confirming that he or she consents to the release of that information to the applicant concerned where the AHRRA has received an application under this section for the release of such information.

(b) Subject to *sections 112* and *113*, the AHRRA shall comply with a *section 110(2)* application.

(3) (a) The relevant person may make an application (in this section referred to as a "*section 110(3)(a)* application") to the AHRRA to be given the name, date of birth and contact details of any child (AHR) or adult (AHR) with whom the relevant person shares a common relevant donor (SJG).

(b) The relevant donor (SJG) may make an application (in this section referred to as a "*section 110(3)(b)* application") to the AHRRA to be given the name, date of birth and contact details of the relevant person in relation to whom the donor provided a relevant donation (SJG) referred to in *subsection (1)(b)*.

(c) Subject to *sections 112* and *113*, where the AHRRA receives a *section 110(3)(a)* application or *section 110(3)(b)* application, it shall search the National Surrogacy Register and the National Donor-Conceived Person Register for the information sought by the application.

(4) Where the AHRRA receives a *section 110(3)(a)* application in respect of a relevant person to whom *subsection (2)* applies, the AHRRA shall send the relevant person a notice in writing informing him or her that—

(a) a *section 110(3)(a)* application has been made by another relevant person who shares a common relevant donor (SJG) with the first-mentioned relevant person, and

(b) unless the first-mentioned relevant person informs the AHRRA, within 12 weeks of the date of sending the notice, that he or she objects to the giving of the information sought by the application, the AHRRA will give the information to the applicant.

(5) Where the AHRRA receives a *section 110(3)(b)* application in respect of a relevant person to whom *subsection (2)* applies, the AHRRA shall send the relevant person a notice in writing informing him or her that—

(a) a *section 110(3)(b)* application has been made by the relevant donor (SJG) of the relevant donation (SJG) that was used to create the embryo concerned, and

(b) unless the relevant person informs the AHRRA, within 12 weeks of the date of sending the notice, that he or she objects to the giving of the information sought by the application, the AHRRA will give the information to the applicant.

(6) Where the relevant person to whom a notice under *subsection (4)* or *(5)* is given does not, within the 12 weeks referred to in that subsection, object to the giving of the information sought by the *section 110(3)(a)* application or *section 110(3)(b)* application, as the case may be, the AHRRA shall give that information to the applicant.

(7) In this section, a reference to a relevant donation (SJG) includes a reference to a gamete donated under the Act of 2015 and a reference to a relevant donor (SJG) includes, in the case of a gamete donated under the Act of 2015, the donor under the Act of 2015 of that gamete.

Provisions supplementary to *sections 107* to *110*

111. (1) Where information relating to a person is, in accordance with this Part, recorded on the National Surrogacy Register, that person (or, in the case of a person who has not attained the age of 16 years, his or her parent or guardian) may make an application (in this section referred to as a "*section 111* application") to the AHRRA to update the information concerned.

(2) Subject to *sections 112* and *113*, the AHRRA shall comply with a *section 111* application.

Applications to AHRRA not correctly completed - international surrogacy

112. (1) Where the AHRRA is not satisfied that an application made to it under this Part has been correctly (including accurately) completed, it may, by notice in writing given to the applicant, refuse to comply with the application or, as the case requires, refuse to take any other action under this Part on foot of the application and state in the notice the reasons for such refusal.

(2) The reference in *subsection (1)* to the AHRRA not being satisfied that an application made to it under this Part has been correctly completed includes a reference to the AHRRA not being satisfied as to the identity of the applicant or another person named in the application.

Additional information - international surrogacy

113. Where an application is made under this Part to the AHRRA, the AHRRA may, by notice in writing given to the applicant, require the applicant to give in the specified form such additional information in relation to any matter to which the application relates as the AHRRA reasonably considers necessary to assist it to determine or, as the case requires, take any other action under this Part on foot of the application.

Provisions supplementary to *sections 112* and *113*

114. *Sections 112* and *113* shall, with all necessary modification, apply to—

(a) a specified form, not being an application made under this Part, given to the AHRRA under this Part as they apply to an application made under this Part, and

(b) the person who gave such form to the AHRRA as they apply to the applicant in respect of an application made under this Part.

Failure to comply with undertakings

115. (1) Where it appears to the AHRRA that a person (however described) has failed to comply with an undertaking given by the person pursuant to a provision of this Part, the AHRRA shall request the person to inform it as to the reasons for the non-compliance and the person's proposals to ensure that the undertaking is complied with.

(2) Where it appears to the AHRRA that the intending parents (or, in the case of a single intending parent, that intending parent) of a child born as a result of a surrogacy agreement (SJ) have (or, in the case of a single intending parent, has) failed without reasonable excuse to comply with the undertakings given by them or him or her, as the case may be, under *section 92*, the AHRRA, having considered any information or proposals received from them or him or her under *subsection (1)*, and having consulted with such other authorities of the State as it considers appropriate, may apply to the High Court for directions to ensure the welfare of the child concerned.

CHAPTER 4

Jurisdiction and offences

Definition - *Chapter 4*

116. In this Chapter, "relevant offence" means a contravention of *section 89(2)* or *(3)*, *90(1)*, *93(3)* or *96(1)*.

Jurisdiction

117. (1) A person may be tried in the State for a relevant offence in relation to an act, to which this subsection applies by virtue of *subsection (2)*, committed, whether in whole or in part—

(a) by the person in the State in relation to a place outside the State,

(b) by the person outside the State in relation to a place in the State, or

(c) by the person outside the State in relation to a place outside the State if—

(i) that person is a person to whom this subparagraph applies by virtue of *subsection (3)*, and

(ii) the act is an offence under the law of the place where the act was committed.

(2) *Subsection (1)* applies to an act which, if it had been committed by a person in a place in the State, would constitute a relevant offence.

(3) *Subsection (1)(c)(i)* applies to each of the following persons:

(a) an Irish citizen;

(b) a person ordinarily resident in the State;

(c) a body corporate established under the law of the State;

(d) a company formed and registered under the Companies Act 2014;

(e) an existing company within the meaning of the Companies Act 2014.

(4) For the purpose of this section, a person shall be deemed to be ordinarily resident in the State if he or she has had his or her principal residence in the State for the period of 12 months immediately preceding the alleged commission of the relevant offence concerned.

(5) Proceedings for an offence to which *subsection (1)(c)* applies may be taken in any place in the State and the offence may for all incidental purposes be treated as having been committed in that place.

Evidence in proceedings for offences outside State

118. (1) In any proceedings relating to a relevant offence in circumstances in which *section 117* applies—

(a) a certificate that is signed by an officer of the Minister for Foreign Affairs and stating that a passport was issued by the Minister to a person on a specified date, and

(b) a certificate that is signed by an officer of the Minister for Justice and stating that, to the best of the officer's knowledge and belief, the person has not ceased to be an Irish citizen,

shall be evidence that the person was an Irish citizen on the date on which the relevant offence concerned is alleged to have been committed, unless the contrary is shown.

(2) A document purporting to be a certificate under *subsection (1)(a)* or *(b)* is deemed, unless the contrary is shown—

(a) to be such a certificate, and

(b) to have been signed by the person purporting to have signed it.

Double jeopardy

119. (1) Where a person has been acquitted of an offence in a place outside the State, he or she shall not be proceeded against for a relevant offence consisting of the alleged act or acts constituting the first-mentioned offence.

(2) Where a person has been convicted of an offence in a place outside the State, he or she shall not be proceeded against for a relevant offence consisting of the act or acts constituting the first-mentioned offence.

PART 9

ASSISTED HUMAN REPRODUCTION REGULATORY AUTHORITY

CHAPTER 1

Definitions and establishment day

Definitions - *Part 9*

120. In this Part—

"Board" shall be construed in accordance with *section 126(1)*;

"chairperson" means the chairperson of the Board;

"chief executive officer" shall be construed in accordance with *section 137(1)*;

"Database" means the Database of AHR Treatment Providers and ESC Researchers established under *section 163(1)*.

Establishment day

121. The Minister shall, by order, appoint a day to be the establishment day for the purposes of this Act.

CHAPTER 2

Establishment and functions of Assisted Human Reproduction Regulatory Authority, etc.

Establishment of Assisted Human Reproduction Regulatory Authority

122. (1) There shall stand established on the establishment day a body which shall be known as *An tÚdarás Rialála um Atáirgeadh Daonna Cuidithe* or, in the English language, the Assisted Human Reproduction Regulatory Authority (in this Act referred to as the "AHRRA") to perform the functions assigned to it under this Act or any other enactment.

(2) The AHRRA is a body corporate with perpetual succession and an official seal and may—

(a) sue and be sued in its own name,

(b) with the consent of the Minister and the Minister for Public Expenditure, National Development Plan Delivery and Reform, acquire, hold and dispose of land or an interest in land, and

(c) acquire, hold and dispose of any other property.

(3) The seal of the AHRRA shall be authenticated by—

(a) the signature of the chairperson or another member of the Board authorised by the chairperson to do so, and

(b) the signature of the chief executive officer or another officer of the AHRRA authorised in writing by the chairperson to do so.

(4) Judicial notice shall be taken of the seal of the AHRRA and every document purporting to be an instrument made by the AHRRA and sealed with the seal of the AHRRA authenticated in accordance with *subsection (3)* shall, unless the contrary is shown, be received in evidence and be deemed to be that instrument without further proof.

Functions of AHRRA

123. (1) The principal function of the AHRRA is to protect, promote and, in so for as is practicable, ensure the health and wellbeing of—

(a) children born, or to be born, as a result of AHR treatment,

(b) persons undergoing, or about to undergo, AHR treatment, and

(c) intending parents.

(2) Without prejudice to the generality of *subsection (1)*, the AHRRA may, and where required by this Act, shall, in accordance with this Act (or, where *paragraph (h)* or *(o)* is applicable, the other enactment concerned)—

(a) issue licences,

(b) amend, revoke or suspend licences,

(c) promote and monitor compliance with this Act by the holders of licences,

(d) establish and maintain the Database,

(e) collect and publish, on its website and in such other media (if any) as it thinks fit, statistical information on AHR, including—

(i) the number of relevant donations (G) or relevant donations (E), or both, made in the State,

(ii) the types of relevant activities provided or undertaken by the holders of licences, and

(iii) the number of AHR treatments, broken down by types of AHR, provided by AHR treatment providers and their outcomes,

(f) prepare or approve of, and publish, codes of practice for the guidance of holders of licences, including different codes in respect of different types of licence,

(g) without prejudice to the generality of *Chapter 3* of *Part 11*, specify in a code of practice (within the meaning of *section 170*) standards, including appropriate ethical standards, to be observed with the provision or undertaking of relevant activities,

(h) perform functions, pursuant to a delegation under section 41A of the Act of 2015, imposed on the Minister under Part 2 or 3 of that Act,

(i) approve surrogacy agreements in accordance with *section 53* or *90*,

(j) establish and maintain the National Surrogacy Register,

(k) consider and determine applications for the extension of the relevant storage period (G), relevant storage period (E) or relevant storage period (T) in accordance with *section 40*, *41* or *42*, as appropriate,

(l) consider and determine applications for HLA matching (within the meaning of *section 44*),

(m) establish and maintain the Register of Genetic Diseases for the purposes of PGT and sex selection (within the meaning of *section 44*),

(n) provide information or advice to the Minister, or make proposals to the Minister, on matters relating to the functions of the AHRRA, and

(o) perform such other functions as are imposed on it by this Act or any other enactment.

(3) The AHRRA may, of its own volition or upon being requested to do so, provide to any person or group of persons such assistance and information as it thinks fit on any matter relating directly or indirectly to AHR.

(4) Subject to this Act, the AHRRA shall be independent in the performance of its functions.

(5) The AHRRA shall perform its functions through or by—

(a) the Board, or

(b) the chief executive officer or any other member of staff of the AHRRA duly authorised in that behalf by the AHRRA.

(6) The AHRRA shall have all such powers as are necessary or expedient for the performance of its functions.

Voluntary Register of Relevant Donors and Donor-Conceived Persons

124. (1) The Minister shall, as soon as is practicable after the commencement of this section, by regulations require the AHRRA to establish and maintain a register of relevant donors and donor-conceived persons to be known as the Voluntary Register of Relevant Donors and Donor-Conceived Persons or, alternatively, the Voluntary Register.

(2) Regulations made under *subsection (1)* shall specify the following:

(a) subject to *subsection (6)*, the particulars of—

(i) relevant donors, or a class of relevant donors, and

(ii) donor-conceived persons, or a class of donor-conceived persons,

that shall be entered in the Voluntary Register;

(b) the persons, or a class of persons, who are entitled to obtain from the Voluntary Register information, or a class of information, recorded on the Voluntary Register;

(c) the information, or class of information, recorded on the Voluntary Register that may be obtained by the persons, or a class of persons, referred to in *paragraph (b)*;

(d) the procedures to be adopted for matching between persons, or a class of persons, who fall within *paragraph (a)(i)* or *(ii)* and persons, or a class of persons, who fall within *paragraph (b)*;

(e) the procedures to be adopted for releasing information, or a class of information, recorded on the Voluntary Register to the persons or a class of persons, referred to in *paragraph (b)*.

(3) The AHRRA shall not enter any particulars of a relevant donor or donor-conceived person in the Voluntary Register unless it is satisfied that the particulars—

(a) are in the specified form, and

(b) were given to the AHRRA—

(i) voluntarily, and

(ii) when the donor or person, as the case may be, had the capacity to do so.

(4) Where the AHRRA receives a request in the specified form from a relevant donor or donor-conceived person to delete his or her particulars from the Voluntary Register, or to update, or correct an error in, any such particulars, the AHRRA shall, without delay, comply with that request.

(5) Where the AHRRA becomes aware of updated information in relation to any particulars entered in the Voluntary Register, or of an error in any such particulars, it shall, without delay, update or correct the particulars, as the case may be.

(6) Without prejudice to the generality of *paragraph (a)* of *subsection (2)*, a class of relevant donors or donor-conceived persons referred to in that paragraph may be identified by reference to whether or not the class consists of Irish citizens or persons born in the State.

(7) On and after the establishment day, the Minister shall not make regulations under *subsection (1)* except after consultation with the AHRRA.

(8) In this section—

"donor-conceived person" means a child born as the result of a DAHR procedure or AHR treatment involving the use of gametes or embryos from a relevant donor;

"relevant donor" means—

(a) a person whose gametes or embryos were donated for use in, and were used in—

(i) the provision of a DAHR procedure before the commencement of section 20 of the Act of 2015, or

(ii) the provision of AHR treatment before the commencement of *section 53* or *90*, as appropriate,

and

(b) such other classes of donor relevant to DAHR procedures or AHR treatment as may be specified in regulations made under *subsection (1)*.

Agreements between AHRRA and public bodies relating to performance by public bodies of functions of AHRRA

125. (1) If any function of the AHRRA should, in its opinion, be performed (whether generally or in a particular case) by a public body and that body is able and willing to perform the function, the public body and the AHRRA may enter into an agreement for the public body to perform the function on the AHRRA's behalf.

(2) If an agreement is entered into for a public body to perform a function of the AHRRA, the public body may—

(a) perform the function on the AHRRA's behalf in accordance with the agreement, and

(b) do any act or thing relating to the performance of that function that the AHRRA would be authorised by law to do if it performed the function.

(3) An agreement under this section may contain terms and conditions relating to—

(a) the extent to which the period for which the public body is authorised to perform the function of the AHRRA,

(b) the making of payments or the transfer of financial responsibility, and

(c) such other matters as are considered necessary to give effect to the agreement.

(4) An agreement under this section may provide for charges payable by the AHRRA to the public body.

CHAPTER 3

Board of AHRRA

Establishment and membership of Board of AHRRA

126. (1) The AHRRA shall have a board (in this Act referred to as the "Board") consisting of the following members:

(a) a chairperson;

(b) 10 ordinary members.

(2) The Minister shall appoint to be members of the Board persons who, in the opinion of the Minister, have sufficient expertise and experience relating to—

(a) matters connected with the functions of the AHRRA, or

(b) corporate governance and management generally,

to enable them to make a substantial contribution to the effective and efficient performance of those functions.

(3) The chairperson shall hold office for such period, not exceeding 4 years, from the date of appointment to the office as the Minister shall determine.

(4) Subject to *subsection (5)*, each ordinary member shall hold office for such period, not exceeding 4 years, from the date of appointment to the office as the Minister shall determine.

(5) Of the ordinary members of the Board first constituted under this section—

(a) 5 members shall hold office for a period of 3 years from the date of appointment to the office, and

(b) 5 members shall hold office for a period of 4 years from the date of appointment to the office.

(6) Subject to *subsection (7)*, a member of the Board whose term of office expires by the effluxion of time shall be eligible for reappointment to the Board.

(7) A person who is reappointed to the Board in accordance with *subsection (6)* shall not hold office for more than 2 consecutive terms and in any event may not serve for a period of more than 8 years.

(8) A member may resign from office by letter sent to the Minister and the resignation shall take effect on the later of—

(a) the date specified in the letter, or

(b) the date of receipt of the letter by the Minister.

(9) The Minister shall, as soon as is practicable after a person is appointed to be a member of the Board, publish on a website, maintained by the Minister or the Government, notice of the name of the person so appointed.

(10) The Minister may, by notice in writing, nominate an ordinary member of the Board to be the deputy chairperson of the Board to act as the chairperson if, for whatever reason, the chairperson is unable to perform his or her functions.

Casual vacancies

127. (1) If a member resigns, dies, ceases to hold office (otherwise than by effluxion of time), ceases to be qualified to hold office or is removed from office, the Minister shall, as soon as is practicable, appoint a person to fill the casual vacancy so arising.

(2) A person appointed under *subsection (1)* shall hold office for the unexpired period of his or her predecessor's term of office or such other period as the Minister may determine not exceeding 4 years (including such unexpired period).

(3) A member appointed under *subsection (1)* is eligible for reappointment to the Board, on the expiry of the unexpired period or other period, as appropriate, referred to in *subsection (2)*, but may not serve for more than 2 further consecutive terms and in any event may not serve for a period of more than 8 years.

Functions of Board

128. (1) The Board is the governing body of the AHRRA with authority, in the name of the AHRRA, to perform the functions of the AHRRA.

(2) The Board shall—

(a) ensure that the functions of the AHRRA (in particular, the principal function) are performed efficiently, effectively and to the highest standards,

(b) set the strategic objectives of the AHRRA consistent with those functions, and

(c) ensure that appropriate systems and procedures are in place to perform those functions and achieve those objectives.

(3) In performing its functions, the Board shall act in good faith with care, skill and diligence.

(4) The Board may delegate to the chief executive officer the day-to-day running of the AHRRA and any of its functions which it considers should be carried out by the chief executive officer and the Board shall be responsible for monitoring, approving or reviewing the performance of such functions by the chief executive officer.

(5) Where a function of the Board is delegated to the chief executive officer, the delegation shall remain in force until the Board revokes it.

(6) The Board shall submit such information regarding the performance of its functions as may be requested in writing by the Minister.

(7) Subject to this Part, the Board may regulate its own procedures.

Membership of either House of Oireachtas or European Parliament, etc.

129. (1) A person is not eligible for appointment as a member of the Board or a committee of the Board if the person is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, or

(d) elected or co-opted as a member of a local authority.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or local authority shall, while he or she is so entitled or such a member, be disqualified from membership of the Board or a committee of the Board.

Removal of member of Board

130. (1) The Minister may at any time remove from office a member of the Board if, in the Minister's opinion—

(a) the member has become incapable through ill-health of performing his or her functions,

(b) the member has committed stated misbehaviour,

(c) the member's removal is necessary for the effective and efficient performance by the Board of its functions,

(d) the member has contravened an applicable provision of the Ethics in Public Office Act 1995, or

(e) in performing functions under this Act, the member has not been guided by a code of conduct that has been drawn up under section 10(3) of the Standards in Public Office Act 2001 and that relates to the member.

(2) If a member of the Board is removed from office in accordance with *subsection (1)*, the Minister shall give the member a statement in writing of the reasons for the removal.

(3) A member of the Board shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(d) is convicted of any indictable offence,

(e) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(f) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014, or

(g) is removed by a competent authority for any reason (other than failure to pay a fee) from any register established for the purpose of registering members of a profession in the State or any other jurisdiction.

(4) A member who does not, for a consecutive period of 6 months, attend a meeting of the Board ceases at the end of that period to hold office unless the member demonstrates to the Minister's satisfaction that the failure was due to ill-health.

(5) In this section, "applicable provision of the Ethics in Public Office Act 1995", in relation to a member, means a provision of that Act that, by virtue of a regulation under section 3 of that Act, applies to that member.

Potential conflicts of interest

131. (1) Where a matter is to be decided by the Board at a meeting, any member of the Board present at the meeting who has an interest in the matter, otherwise than as such a member, shall—

(a) at the meeting, in advance of any consideration of the matter, disclose to the Board the fact of the interest and the nature of the interest,

(b) neither influence nor seek to influence a decision relating to the matter,

(c) absent himself or herself from any meeting or that part of the meeting during which the matter is discussed,

(d) take no part in any deliberation of the Board or committee of the Board relating to the matter, and

(e) not vote on a decision relating to the matter.

(2) Where a member discloses an interest in a matter under *subsection (1)*—

(a) the disclosure shall be recorded in the minutes of the meeting, and

(b) for so long as the matter is being dealt with by the meeting, the member shall not be counted in the quorum for the meeting unless the Board or committee otherwise determines.

(3) Where, at a meeting of the Board or a committee of the Board, a question arises as to whether or not a course of conduct, if pursued by a member of the Board or committee of the Board, as the case may be, would be a failure by the member to comply with the requirements of *subsection (1)*—

(a) the question may be determined by the chairperson of the Board or of the committee of the Board, as the case may be, whose decision shall be final, and

(b) if the question is so determined, particulars of the determination shall be recorded in the minutes of the meeting concerned.

(4) Where satisfied that a member of the Board or a committee of the Board has contravened *subsection (1)*, the Minister may, if he or she thinks fit to do so, remove that member from office or take any other action that the Minister considers appropriate.

(5) A person who is removed from office under *subsection (4)* is disqualified from membership of the Board or of a committee of the Board.

Removal of all members of Board

132. (1) The Minister may remove all the members of the Board from office if—

(a) the Board fails to achieve a quorum for 3 consecutive meetings,

(b) the Board does not comply with a judgement, order or decree of any court,

(c) the Board does not comply with a direction of the Minister or any other requirement imposed on it by or under any enactment (including this Act), or

(d) the Minister is of the opinion that the Board's functions are not being performed in an effective and efficient manner.

(2) The Minister may, if he or she is of the opinion that the Board's functions are not being performed in an effective and efficient manner, appoint a person to—

(a) conduct an independent review of any matter giving rise to that opinion, and

(b) submit a report to the Minister on the results of the review.

(3) The Board shall co-operate with a review under *subsection (2)* and give the person conducting it all reasonable assistance, including access to such premises, equipment and books, records or other documents as the person may require for the purposes of the review.

(4) The removal of the members of the Board from office does not revoke or otherwise affect any delegation of the AHRRA's functions to the chief executive officer under *section 128(4)*.

Meetings of Board

133. (1) The Board shall hold as many meetings as are necessary for the performance of its functions, but in each year shall hold at least 4 meetings.

(2) The chairperson may at any reasonable time call a meeting of the Board.

(3) Any 5 members of the Board may call a meeting of the Board if the chairperson—

(a) refuses to call a meeting after being presented with a requisition for that purpose signed by not fewer than 5 members, or

(b) without refusing to call a meeting, does not call one within 7 days of being presented with such a requisition.

(4) Subject to *section 126(10)*, at a meeting called under *subsection (3)*, or where the chairperson has called a meeting or cannot attend, or where the office of the chairperson is vacant, the members present shall choose one of those present to chair the meeting.

(5) The quorum for a meeting of the Board shall be 6 members.

(6) A meeting held while there is a vacancy on the Board will be valid irrespective of the vacancy, as long as there is a quorum.

(7) With the exception of a meeting called in accordance with *subsection (3)*, the chairperson shall, if present, preside at all meetings of the Board.

(8) Any question at a meeting shall be determined by a majority of the votes of the members present and voting on the question.

(9) Where there is an equal division of votes, the chairperson has a second and casting vote at all meetings at which he or she is present except where a meeting has been called in accordance with *subsection (3)*, in which case the chairperson or, subject to *section 126(10)*, the person chosen in accordance with *subsection (4)*, as appropriate, has a second or casting vote.

Committees of Board

134. (1) The Board may establish committees to assist and advise it on matters relating to its functions and may determine the membership and terms of reference of each committee.

(2) The Board may appoint to a committee of the Board persons who are not members of the Board but have special knowledge and experience related to the purposes of the committee.

(3) The appointment of a person to a committee of the Board is subject to such terms and conditions as may be determined—

(a) under *section 136(1)* to the extent that they relate to remuneration and allowances for expenses, and

(b) by the Board, in any other case.

(4) The Board shall specify in writing the purposes and terms of reference of each committee of the Board.

(5) The acts of a committee of the Board are subject to confirmation by the Board unless the Board dispenses with the necessity for confirmation.

(6) The Board may regulate the procedure of a committee of the Board but, subject to any such regulation, a committee may regulate its own procedure.

(7) The Board may at any time dissolve a committee of the Board established under this section.

Ineligibility of holders, etc., for appointment as member of Board

135. (1) A person shall not be eligible for appointment as a member of the Board or of a committee of the Board if the person is—

(a) the holder of a licence, or

(b) the chief executive officer.

(2) A person shall not be eligible for appointment as a member of the Board if the person is a member of staff of the AHRRA.

Remuneration and expenses of members of Board and committees

136. (1) The Minister may, with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, determine the remuneration and allowances for expenses payable under this section.

(2) The remuneration and allowances for expenses (if any) determined in accordance with *subsection (1)* are payable by the AHRRA out of funds at its disposal to—

(a) the members of the Board, and

(b) the members of a committee of the Board.

(3) The remuneration and allowances for expenses (if any) determined in accordance with *subsection (1)* are payable by the Minister out of money provided by the Oireachtas to a person appointed under *section 132(2)* to conduct an independent review.

CHAPTER 4

Chief executive officer of AHRRA

Appointment of chief executive officer

137. (1) The Board shall, as soon as is practicable after the establishment day, and thereafter as required, appoint a person recruited in accordance with the Public Service Management (Recruitment and Appointments) Act 2004 to be the chief executive officer of the AHRRA (in this Act referred to as the "chief executive officer").

(2) The chief executive officer shall hold office upon and subject to such terms and conditions (including terms and conditions relating to remuneration, allowances for expenses and superannuation) as may be determined by the Board with the approval of the Minister given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

(3) The remuneration and allowances for expenses determined under *subsection (2)* shall be paid out of funds at the disposal of the AHRRA.

(4) The chief executive officer shall not hold any other office or employment or carry on any business.

(5) The chief executive officer, although not eligible, by virtue of *section 135(1)*, to be a member of the Board or a committee of the Board, may, in accordance with procedures established by the Board or a committee of the Board, as the case may be, attend meetings of the Board or a committee and shall be entitled to speak at and advise such meetings.

Resignation, removal or disqualification of chief executive officer

138. (1) The chief executive officer may resign from office by giving notice in writing to the Board of his or her resignation.

(2) The Board may, at any time, remove the chief executive officer from office if, in its opinion—

(a) the chief executive officer has become incapable through ill-health of performing his or her functions,

(b) the chief executive officer has committed stated misbehaviour, or

(c) the removal of the chief executive officer is necessary for the effective and efficient performance by the AHRRA of its functions.

(3) If the chief executive officer is removed from office in accordance with *subsection (2)*, the Board shall provide the chief executive officer with a statement in writing of the reasons for the removal.

(4) The chief executive officer shall cease to be qualified for office and shall cease to hold office if he or she—

(a) is adjudicated bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(d) is convicted of any indictable offence,

(e) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not,

(f) is, or is deemed to be, the subject of an order under section 160 of the Companies Act 1990 or a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014, or

(g) is removed by a competent authority for any reason (other than a failure to pay a fee) from any register established for the purposes of registering members of a profession in the State or any other jurisdiction.

Functions of chief executive officer

139. The chief executive officer shall—

(a) carry on and manage, and control generally, the administration and business of the AHRRA in accordance with the strategic objectives set out by the Board,

(b) perform such other functions as may be assigned to him or her under this Act or any other enactment or as may be delegated to him or her by the Board, and

(c) provide the Board with such information relating to the performance of his or her functions and the implementation of the strategic objectives of the AHRRA as the Board may require.

Delegation of functions

140. (1) (a) Subject to *paragraph (c)*, the chief executive officer may delegate any of his or her functions under *section 139* in writing to a member of staff of the AHRRA which member shall be specified by name, grade, position or otherwise.

(b) Without prejudice to the generality of *paragraph (a)*, the chief executive officer may exercise his or her power under that paragraph by delegating all of his or her functions under *section 139* to a single member of staff of the AHRRA to be performed by that member of staff during any period when the chief executive officer is absent from duty or from the State or is, for any other reason, unable to perform such functions.

(c) The Board may issue directions in writing to the chief executive officer in respect of the exercise of his or her power under *paragraph (a)* and the chief executive officer shall comply with such directions.

(2) Any function delegated under this section to a member of staff of the AHRRA shall be performed by the member under the general direction and control of the chief executive officer and in compliance with such directions, limitations and guidelines as may be specified by the chief executive officer.

(3) The delegation of a function does not preclude the chief executive officer from performing the function.

(4) The chief executive officer may—

(a) vary the delegation of a function under this section, or

(b) revoke the delegation.

(5) On varying or revoking the delegation of a function, the chief executive officer shall, as soon as is practicable, inform each member of staff of the AHRRA to whom the function was delegated of its variation or revocation.

Accountability of chief executive officer to committees of Houses of Oireachtas

141. (1) Subject to *subsection (2)*, the chief executive officer shall, at the request in writing of a committee, attend before it to give account of the general administration of the AHRRA.

(2) The chief executive officer shall not be required to give account before a committee for any matter which is or has been, or may be at a future date, the subject of proceedings before a court or tribunal in the State.

(3) Where the chief executive officer is of the opinion that a matter in respect of which he or she is requested to give an account before a committee is a matter to which *subsection (2)* applies, he or she shall inform the committee of that opinion and the reasons for that opinion and, unless the information is conveyed to the committee at a time when the chief executive officer is before it, the information shall be so conveyed in writing.

(4) Where the chief executive officer has informed a committee of this opinion in accordance with *subsection (3)* and the committee does not withdraw the request referred to in *subsection (1)* in so far as it relates to the subject matter of the opinion—

(a) the chief executive officer may, not later than 42 days after being informed by the committee of its decision not to do so, apply to the High Court in a summary manner for determination of the question whether the matter is one to which *subsection (2)* applies, or

(b) the Chairperson of the committee may, on behalf of the committee, make such an application,

and the High Court shall determine the matter.

(5) Pending the determination of an application under *subsection (4)*, the chief executive officer shall not attend before the committee to give account for the matter that is the subject of the application.

(6) If the High Court determines that the matter concerned is one to which *subsection (2)* applies, the committee shall withdraw the request referred to in *subsection (1)*, but if the High Court determines that *subsection (2)* does not apply, the chief executive officer shall attend before the committee to give account for the matter.

(7) In the performance of his or her duties under this section, the chief executive officer shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.

(8) With the permission of the Chairperson of a committee making the request under *subsection (1)*, either—

(a) the chairperson of the Board, or

(b) an employee of the AHRRA nominated by the chief executive officer,

may attend before the committee in place of the chief executive officer to give an account of the general administration of the AHRRA, and in that case a reference in *subsections (2)* to *(7)* to the chief executive officer shall be read as including a reference to the person attending in his or her place.

(9) In this section, "committee" means a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas, other than—

(a) the Committee of Public Accounts, the Committee on Members' Interests of Dáil Éireann or the Committee on Members' Interests of Seanad Éireann, or

(b) a subcommittee of a committee referred to in *paragraph (a)*.

Appearance of chief executive officer before Committee of Public Accounts

142. (1) The chief executive officer shall, whenever required in writing to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General (in this section referred as the "Committee") give evidence to that Committee in relation to—

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the AHRRA is required by or under this Act or another enactment to prepare,

(b) the economy and efficiency of the AHRRA in the use of its resources,

(c) the systems, procedures and practices employed by the AHRRA for the purpose of evaluating the effectiveness of its operations, and

(d) any matter affecting the AHRRA referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993, or in any other report of the Comptroller and Auditor General (in so far as it relates to the matter specified in *paragraph (a)*, *(b)* or *(c)*) that is laid before Dáil Eireann.

(2) In the performance of his or her duties under this section, the chief executive officer shall not question or express an opinion on the merits of—

(a) any policy of the Government or of a Minister of the Government, or

(b) the objectives of such a policy.

Membership of either House of Oireachtas or European Parliament, etc.

143. (1) A person is not eligible for appointment as the chief executive officer if the person is—

(a) nominated as a member of Seanad Éireann,

(b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,

(c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, or

(d) elected or co-opted as a member of a local authority.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or of a local authority shall, while he or she is so entitled or is such a member, be disqualified from being the chief executive officer.

Acting chief executive officer

144. (1) Subject to *subsection (2)*, the Board may appoint such other employee of the AHRRA to perform the functions of the chief executive officer during—

(a) any period or periods when the chief executive officer is absent from duty or from the State or is, for any other reason, unable to perform the functions of chief executive officer,

(b) any suspension from office of the chief executive officer, or

(c) any vacancy in the office of chief executive officer.

(2) The Board may at any time terminate an appointment under this section.

CHAPTER 5

Employees of AHRRA

Employees

145. (1) The Board may, subject to *subsection (2)*, appoint persons to be employees of the AHRRA, using an appropriate and transparent recruitment and selection process approved by the Board and determine their duties.

(2) The Board, with the approval of the Minister, given with the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform, shall

determine the remuneration, allowances for expenses and superannuation of employees appointed under this section.

(3) Remuneration and allowances for expenses of employees are payable by the AHRRA out of the funds at its disposal.

(4) The AHRRA may engage such consultants or advisers as it considers necessary for the performance of its functions.

(5) Fees due to a consultant or adviser engaged under this section are payable by the AHRRA out of funds at its disposal.

CHAPTER 6

Accounts and annual report of AHRRA

Accounts of AHRRA

146. (1) The AHRRA shall cause to be kept all proper and usual books or other records of account of all money received or expended by it.

(2) The Board shall, in respect of each financial year, cause to be prepared proper accounts of all income and expenditure and of the property, credits and liabilities of the AHRRA.

(3) (a) Subject to *paragraph (b)*, the financial year of the AHRRA shall be the period of 12 months ending on the 31st day of December in any year, commencing on the establishment day.

(b) Where the establishment day is not the 1st day of January, the first financial year of the AHRRA shall be the period from and including the establishment day to and including the 31st day of December of the year in which the establishment day falls.

(4) The statement of accounts of the AHRRA for each financial year shall, as soon as may be after the end of the financial year, be prepared and the accounts of the AHRRA shall be submitted to the Comptroller and Auditor General for audit, as soon as is practicable, and not later than 3 months after the end of the financial year to which the accounts relate.

(5) Within one month of the Comptroller and Auditor General issuing an audit certificate for the accounts of the AHRRA, a copy of—

(a) the accounts, and

(b) the report of the Comptroller and Auditor General on the accounts,

shall be presented to the Minister who, within 2 months after their receipt, shall cause copies thereof to be laid before each House of the Oireachtas.

Annual report of AHRRA

147. (1) Not later than 30 April in each year, the AHRRA shall prepare and adopt an annual report in relation to the performance of the AHRRA's functions during the immediately preceding calendar year.

(2) As soon as may be but no later than 21 days after adopting the annual report, the AHRRA shall submit a copy of the annual report to the Minister.

(3) The Minister shall, within 21 days of receiving the annual report, cause copies of it to be laid before each House of the Oireachtas.

CHAPTER 7

Miscellaneous

Duty of AHRRA to give information

148. (1) The AHRRA shall—

(a) monitor and keep under review occurrences and developments concerning matters relating to its functions, and

(b) without delay, give the Minister information regarding—

(i) any occurrence or development that, in the opinion of the AHRRA, the Minister is likely to consider significant for the performance of his or her functions (whether under this Act or otherwise), or

(ii) any other occurrence or development that falls within a class of occurrences or developments of public interest or concern that has been specified in writing by the Minister.

(2) The Minister may issue directions in writing in relation to the furnishing of information under *subsection (1)* and, if he or she does so, the AHRRA shall comply with those directions.

(3) The AHRRA shall submit, when required by the Minister to do so, a report on any matters connected with the functions of the AHRRA and specified in writing by the Minister.

(4) A report under *subsection (3)* shall—

(a) address matters of general or specific concern, and

(b) be made in such form and within such period,

as specified in the requirement.

Disclosure of confidential information

149. (1) Except in the circumstances specified in *subsection (2)*, a person shall not disclose confidential information obtained while performing functions as—

(a) a member of the Board or a committee of the Board,

(b) a person appointed under *section 132(2)*,

(c) the chief executive officer or any other member of staff of the AHRRA,

(d) a person engaged under *section 145(4)* by the AHRRA as an advisor or consultant,

(e) an employee of a person referred to in *paragraph (b)* or *(d)*, or

(f) an authorised officer.

(2) A person does not contravene *subsection (1)* by disclosing confidential information if the disclosure—

(a) is made to or authorised by the AHRRA,

(b) is made to the Minister by or on behalf of the AHRRA or in compliance with this Act, or

(c) is required by law.

(3) In this section, "confidential information" means any, or any combination, of the following:

(a) information that is expressed by the AHRRA to be confidential, either as regards particular information or as regards information of a particular class or description;

(b) information relating to proposals of a commercial nature or tenders submitted to the AHRRA by any person;

(c) information entered in the National Donor-Conceived Person Register;

(d) information entered in the National Surrogacy Register;

(e) information entered in the Voluntary Register (within the meaning of *section 124*);

(f) information that would allow identification of a person availing of AHR.

Processing of personal data

150. (1) The AHRRA may process personal data for the purposes of the functions assigned to it by or under this Act or any other enactment.

(2) Such processing shall go no further than is necessary for the carrying out of those functions.

Power to specify form of documents

151. (1) Subject to *sections 19(2)*, *20(2)*, *21(2)* and *(3)*, *22(2)*, *23(2)* and *(3)*, and *25(2)* and *(3)*, the AHRRA may specify the form of documents required for the purposes of this Act as it thinks fit.

(2) The AHRRA's power under *subsection (1)* may be exercised in such a way as to specify two or more forms of any document (whether in paper or electronic form or

both) referred to in that subsection, whether as alternatives, or to provide for particular circumstances or particular cases, as the AHRRA thinks fit.

(3) The form of a document specified under this section shall be—

(a) completed in accordance with such directions and instructions as are specified in the document,

(b) accompanied by such other documents (including a statutory declaration) as are specified in the document, and

(c) if the completed document is required to be provided to—

(i) the AHRRA,

(ii) another person on behalf of the AHRRA, or

(iii) any other person,

so provided in the manner (if any) specified in the document.

(4) Without prejudice to *subsection (3)(a)*, the directions and instructions referred to in that subsection may specify the circumstances in which one of 2 persons, each of whom has attained the age of 18 years and each of whom has capacity to sign the form concerned specified under this section, may sign the form on behalf of the other person where the other person is physically unable to sign the form.

Immunity from suit

152. (1) Civil or criminal proceedings shall not lie in any court against the AHRRA or a relevant person in respect of any thing said or done in good faith by the AHRRA or a relevant person, as the case may be, in the course of the performance or purported performance of their respective functions under this Act.

(2) In this section, "relevant person" means—

(a) a member of the Board or a committee of the Board,

(b) a person appointed under *section 132(2)*,

(c) the chief executive officer or any other member of staff of the AHRRA,

(d) an employee of a person referred to in *paragraph (b)*, or

(e) an authorised officer.

PART 10

LICENCES

CHAPTER 1

Grant or refusal of licence and related matters

Application for grant of licence

153. (1) Subject to *subsection (4)*, a person may make an application in the specified form, accompanied by the specified fee, to the AHRRA for the grant of a licence to undertake the relevant activity the subject of the application at the premises specified in the application.

(2) Without prejudice to the generality of *subsection (3)* or *section 151*, a licence application may require any information to be provided in relation to any of the matters to which the AHRRA shall have regard to by virtue of *section 154*.

(3) Where a licence application is made to the AHRRA, it may, by notice in writing given to the applicant, require the applicant to provide in the specified form such additional information in relation to any matter to which the application relates as the AHRRA reasonably considers necessary to assist it to determine the application.

(4) A person who is a body corporate may not make a licence application unless it is—

(a) a company,

(b) an EEA company within the meaning of Part 21 of the Act of 2014, or

(c) a public body.

(5) A licence application may relate to two or more relevant activities.

Criteria to which AHRRA shall have regard in determining licence application

154. (1) The AHRRA shall, in determining a licence application under *section 155*, have regard to the criteria specified in *Schedule 3* in the case of a relevant activity which falls within *paragraph (a)* of the definition of "relevant activity" and *Schedule 4* in the case of a relevant activity which falls within *paragraph (b)* of that definition in so far as such criteria are relevant to the proposed relevant activity the subject of the application.

(2) (a) Subject to *subsections (3)* and *(4)*, the Minister may, by regulations specify, for the purposes of *paragraph 5* of *Schedule 3* or *paragraph 8* of *Schedule 4* additional criteria that the AHRRA shall have regard to in determining a licence application under *section 155.*

(b) Regulations made under *paragraph (a)* may be subject to conditions and be of general application or apply to such relevant activities as may be specified in the regulations.

(3) In making regulations under *subsection (2)*, the Minister shall, in addition to having regard to the other provisions of this Act, have regard to the following in relation to the proposed additional criteria:

(a) in the case of AHR treatment—

(i) whether, in the opinion of the Minister, the criteria assist in the furtherance of the objective that the health and safety of children who may be born as a result of such treatment is the principal consideration, and

(ii) whether, in the opinion of the Minister, the criteria assist in the furtherance of the objective that the health and safety of persons provided with such treatment is the principal consideration after the principal consideration referred to in *subparagraph (i)*;

(b) in the case of ESC research, whether, in the opinion of the Minister, the criteria are directed towards promoting ESC research which may produce results, amongst other beneficial results (if any), that contribute towards the objective referred to in *paragraph (a)(i)* or *(ii)*, or both such objectives.

(4) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the AHRRA.

Grant or refusal of licence

155. (1) Subject to *section 154* and *subsections (2)*, *(4)*, *(5)* and *(6)*, the AHRRA shall determine a licence application by—

(a) granting a licence to the applicant authorising the applicant to undertake the proposed relevant activity (whether in whole or in part) the subject of the application under and in accordance with the provisions of the licence and this Act, and—

(i) at the premises specified in the licence for the purpose, and

(ii) subject to such conditions (if any) attached to the licence by virtue of *section 156(1)* as the AHRRA thinks fit,

or

(b) giving a notice in writing to the applicant refusing to grant a licence to undertake the proposed relevant activity the subject of the application.

(2) The AHRRA shall, to the extent practicable, determine a licence application not later than 90 days after the day on which the AHRRA is satisfied that the applicant has complied with all the requirements of or under this Part in so far as they relate to the application.

(3) Where the AHRRA—

(a) grants a licence for part only of the proposed relevant activity the subject of the licence application concerned,

(b) grants a licence to which conditions are attached by virtue of *section 156(1)*, or

(c) refuses to grant a licence,

the AHRRA shall, at the same time, give the applicant notice in writing of the reasons for the partial grant, conditions or refusal, as the case may be.

(4) A licence shall include the following at a minimum:

(a) the name of the holder of the licence;

(b) the physical address of the premises at which the relevant activity the subject of the licence may be undertaken and (if applicable) the electronic address of such premises;

(c) the electronic address of the holder;

(d) the nature of the relevant activity the subject of the licence.

(5) Subject to *subsection (6)*, a licence shall not authorise the undertaking of a relevant activity at more than one premises and any licence that purports to do so shall be void.

(6) *Subsection (5)* shall not apply to a relevant activity which falls within *paragraph (b)* of the definition of "relevant activity" but without prejudice to the AHRRA's discretion to grant a licence authorising the undertaking of such activity at only one premises specified in the licence.

Conditions which may be attached to licence, etc.

156. (1) The AHRRA may attach to a licence one or more than one of the types of conditions specified in *Part 1* of *Schedule 5* in the case of a relevant activity which falls within *paragraph (a)* of the definition of "relevant activity" and *Part 1* of *Schedule 6* in the case of a relevant activity which falls within *paragraph (b)* of that definition.

(2) (a) The conditions specified in *Part 2* of *Schedule 5* shall be deemed to be attached to each licence authorising the provision of AHR treatment.

(b) The conditions specified in *Part 2* of *Schedule 6* shall be deemed to be attached to each licence authorising the undertaking of ESC research.

(3) (a) Subject to *subsections (5)* and *(6)*, the Minister may by regulations specify—

(i) for the purposes of *paragraph 2* of *Part 1* of *Schedule 5* or *paragraph 3* of *Part 2* of that Schedule, or

(ii) for the purposes of *paragraph 3* of *Part 1* of *Schedule 6* or *paragraph 3* of *Part 2* of that Schedule,

additional types of conditions which may be attached, or be deemed to be attached, as the case may be, to a licence.

(b) Regulations made under *paragraph (a)* may be of general application or apply to such relevant activities as may be specified in the regulations.

(4) Where the Minister makes regulations under *subsection (2)*, he or she shall, in addition to having regard to the other provisions of this Act, have regard to the following in relation to the proposed additional types of conditions:

(a) in the case of AHR treatment—

(i) whether, in the opinion of the Minister, the condition assists in the furtherance of the objective that the health and safety of children who may be born as a result of such treatment is the principal consideration, and

(ii) whether, in the opinion of the Minister, the condition assists in the furtherance of the objective that the health and safety of persons provided with such treatment is the principal consideration after the principal consideration referred to in *subparagraph (i)*;

(b) in the case of ESC research, whether, in the opinion of the Minister, the condition is directed towards promoting ESC research which may produce results, amongst other beneficial results (if any), that contribute towards the objective referred to in *paragraph (a)(i)* or *(ii)*, or both such objectives.

(5) On and after the establishment day, the Minister shall not make regulations under *subsection (3)* except after consultation with the AHRRA.

(6) A condition specified, by virtue of regulations made under *subsection (3)*—

(a) for the purposes of *paragraph 3* of *Part 2* of *Schedule 5*, or

(b) for the purposes of *paragraph 3* of *Part 2* of *Schedule 6*,

shall not be deemed to be attached to a licence granted before the condition was so specified.

Notification of grant of licence, etc.

157. The AHRRA shall, as soon as is practicable after it grants a licence, publish a notice on its website stating, at a minimum—

(a) the name of the holder of the licence,

(b) the physical address of the premises at which the relevant activity the subject of the licence may be undertaken and (if applicable) the electronic address of such premises,

(c) the electronic address of the holder, and

(d) the nature of the relevant activity the subject of the licence.

Chapter 2

Assignment or amendment of licence

Assignment of licence

158. (1) This section applies where the holder of a licence (in this section referred to as the "proposed assignor") wishes to assign the licence to another person (in this section referred to as the "proposed assignee").

(2) The proposed assignor and the proposed assignee shall make a joint licence application to the AHRRA for the AHRRA's consent in writing to the assignment and, in the case of such application, *section 153* and the other provisions of this Part (including *section 157* and *Chapter 6*) applicable to a licence application and its determination under *section 155* shall, with all necessary modifications apply accordingly.

(3) The assignment of a licence purporting to be effected without the consent referred to in *subsection (2)* shall be void.

(4) References in this Act to the grant of a licence shall include references to the assignment of a licence in any case where the licence has been assigned or reassigned in accordance with this section.

Material amendment to licence

159. (1) The holder of a licence who wishes to amend the licence in any material way shall make a licence application for such amendment and, in the case of such application, *section 153* and the other provisions of this Part (including *section 157* and *Chapter 6*) applicable to a licence application and its determination under *section 155* shall, with all necessary modifications, apply accordingly.

(2) Subject to *subsections (3)* and *(4)*, the Minister may by regulations specify classes of amendments to a licence that are, for the purposes of this section, non-material.

(3) Where the Minister makes regulations under *subsection (2)*, he or she shall, in addition to having regard to the other provisions of this Act, also have regard to the principle that the amendments that fall within the class should be trivial, insignificant, minor or inconsequential.

(4) On and after the establishment day, the Minister shall not make regulations under *subsection (2)* except after consultation with the AHRRA.

(5) (a) The holder of a licence who wishes to make an amendment to the licence which it considers to be non-material amendment may make an application in the specified form, accompanied by the specified fee, to the AHRRA for the AHRRA to make such amendment to the licence.

(b) Where the AHRRA is satisfied that the amendment sought is a non-material amendment (including in any case where it is so satisfied by virtue of submissions referred to in *paragraph (c)* made to it), it shall make the amendment to the licence and issue the licence as so amended to the holder and the licence as so amended shall, on and after the date of such issue and for all purposes, replace the licence as in force immediately before it was so amended.

(c) Where the AHRRA is not satisfied that the amendment sought is a non-material amendment, it shall, in the interest of procedural fairness, give a notice in writing to the holder stating—

(i) the AHRRA's reasons why it is not satisfied, and

(ii) that the holder may, if the holder wishes to do so, within the period specified in the notice (being a period of not less than four weeks from the date that the holder receives the notice), make, in view of those reasons only, submissions in writing on those reasons for the AHRRA's further consideration before the AHRRA decides whether or not it is satisfied that the amendment is a non-material amendment.

(d) Where submissions referred to in *paragraph (c)* made before the expiration of the period concerned referred to in that paragraph do not satisfy the AHRRA that the amendment sought is a non-material amendment, or no such submissions are made before the expiration of that period, the AHRRA shall, as soon as is practicable after that expiration, give the holder notice in writing that the AHRRA is not satisfied that the amendment sought is a non-material amendment and setting out the reasons why the AHRRA is not so satisfied.

(e) Where *paragraph (b)* applies, the AHRRA shall, as soon as is practicable after issuing the amended licence as referred to in that paragraph to the holder, publish on its website, at a minimum, sufficient particulars of the amendment made to the licence to enable members of the public to understand the nature of the amendment and sufficient particulars of the licence to readily identify it.

(f) Where *paragraph (d)* applies, the AHRRA shall, as soon as is practicable after it gives the notice referred to in that paragraph to the holder, publish on its website, at a minimum, a copy of the notice.

(6) In this section—

"material amendment", in relation to a licence, means any amendment to the licence other than a non-material amendment;

"non-material amendment", in relation to a licence, means an amendment which falls within a class of amendments specified in regulations made under *subsection (2)*.

Chapter 3

Surrender of licence

Surrender of licence

160. (1) The holder of a licence may make an application in the specified form, accompanied by the specified fee, to the AHRRA for the surrender of the licence.

(2) Where an application under *subsection (1)* is made to the AHRRA, the AHRRA may, by notice in writing given to the applicant, require the applicant to provide in the specified form such additional information in relation to any matter to which the application relates as the AHRRA reasonably considers necessary to assist him or her to determine the application under *section 161.*

Determination of application under *section 160*

161. (1) The AHRRA shall determine an application under *section 160(1)* by—

(a) if the applicant has satisfied the AHRRA that all the obligations of the applicant arising from being the holder of the licence concerned (and whether or not such obligations arise under this Act or another enactment) have been discharged, approving the surrender of the licence by notice in writing given to the applicant specifying the date on which the surrender shall take effect, or

(b) in any other case, giving a notice in writing to the applicant refusing the application and stating the AHRRA's reasons for the refusal.

(2) The surrender of a licence purporting to be effected without the approval referred to in *subsection (1)(a)* shall be void.

CHAPTER 4

Minister may declare certain persons who are not individuals to be fit and proper persons

Minister may declare person, etc., who is not individual to be fit and proper person

162. (1) Subject to *subsections (2)* to *(4)* and notwithstanding the provisions of *Schedule 1*, the Minister may, by order, declare that—

(a) a person (not being an individual) specified in the order is a fit and proper person to be granted and to hold—

(i) any licence, or

(ii) a licence which falls within a class of licences specified in the order,

or

(b) a person who falls within a class of persons (not being individuals) specified in the order is a fit and proper person to be granted and to hold—

(i) any licence, or

(ii) a licence which falls within a class of licences specified in the order.

(2) The Minister shall, in exercising his or her power under *subsection (1)(a)* in relation to a person, have regard to the following:

(a) the legal nature of the person;

(b) the statutory functions (if any) of the person;

(c) the purposes for which the person has made or may make a licence application.

(3) The Minister shall, in exercising his or her power under *subsection (1)(b)* in relation to a class of persons, have regard to the following:

(a) the legal nature of the persons who fall within the class;

(b) the statutory functions (if any) of the persons who fall within the class;

(c) the purposes for which the persons who fall within the class have made or may make a licence application.

(4) On and after the establishment day, the Minister shall not make an order under *subsection (1)* except after consultation with the AHRRA.

Chapter 5

Database of AHR Treatment Providers and ESC Researchers

Establishment of Database of AHR Treatment Providers and ESC Researchers

163. (1) The AHRRA shall, as soon as is practicable after the coming into operation of this section, establish and maintain a database to be known as the Database of AHR Treatment Providers and ESC Researchers.

(2) The Database shall be in the form of an electronic database published on the AHRRA's website.

(3) The AHRRA shall, as soon as is practicable after it grants a licence, enter the following data in the Database:

(a) the name of the holder of the licence;

(b) the physical address of the premises at which the relevant activity the subject of the licence may be undertaken and (if applicable) the electronic address of such premises;

(c) the electronic address of the holder;

(d) the nature of the relevant activity the subject of the licence.

Correction of database

164. (1) For the purposes of keeping the Database correct, the AHRRA may amend or delete any particulars entered in the Database.

(2) The AHRRA shall take such steps as it considers necessary from time to time to ensure that the particulars entered in the Database are accurate.

Chapter 6

Appeals

Appeals against certain decisions of AHRRA

165. (1) In this section—

"relevant decision" means a decision of the AHRRA—

(a) under *section 155(1)* to which *section 155(3)* applies, or

(b) under *section 161(1)(b)*;

"relevant person", in relation to a relevant decision, means—

(a) in the case of *paragraph (a)* of the definition of "relevant decision", the person who makes the licence application concerned, or

(b) in the case of *paragraph (b)* of the definition of "relevant decision", the holder of the licence concerned.

(2) The relevant person may, on notice to the AHRRA, appeal against a relevant decision to the High Court not later than 3 months after the date on which the relevant decision was notified to the relevant person by the AHRRA.

(3) The High Court may, on the hearing of an appeal under *subsection (2)* made by the relevant person—

(a) either—

(i) confirm the relevant decision the subject of the appeal, or

(ii) cancel that decision and replace it with such other decision as the Court thinks fit, which (and without prejudice to the generality of the foregoing) may be a decision to require the AHRRA to reconsider the relevant decision in accordance with such directions as are given to the AHRRA for the purpose of that reconsideration,

and

(b) give the AHRRA such directions or, in the case of directions referred to in *paragraph (a)(ii)*, such further directions as the Court thinks fit and direct how the costs of the appeal are to be borne.

(4) The AHRRA shall, on complying with a direction given by the High Court under *subsection (3)*, give notice in writing to the relevant person concerned of the AHRRA's compliance with the direction.

(5) The decision of the High Court on an appeal under *subsection (2)* shall be final except that the AHRRA or the relevant person concerned may by leave of the Court or the Court of Appeal appeal against the decision to the Court of Appeal on a specified question of law.

Chapter 7

Miscellaneous

Display of licence

166. The holder of a licence shall cause the licence or an exact copy thereof to be exhibited at all times in a conspicuous position in the premises (or, if *section 155(6)* applies, each premises) the subject of the licence.

Lost, etc., licence

167. Where a licence has been lost, defaced or destroyed, the AHRRA may, upon application in the specified form, accompanied by the specified fee, being made to it by the holder of the licence, issue to the holder another licence in the like terms, and any such licence so

issued shall, for the purposes of this Act, be deemed to have been granted under *section 155*.

Fees for licences

168. (1) Subject to *subsections (2)* and *(6)*, the Minister may by regulations specify the fees to be paid to the AHRRA for relevant applications and, for that purpose—

(a) different amounts may be specified for such applications which fall within different classes of such applications specified in the regulations, and

(b) the regulations may specify the circumstances in which—

(i) an exemption from the payment of such a fee applies, or

(ii) a waiver, remission or refund (whether in whole or in part) of such fee applies.

(2) The Minister shall, when specifying, in regulations made under *subsection (1)*, the fee to be paid to the AHRRA for relevant applications, have regard to the administrative costs associated with processing applications, including the cost of determining whether the requirements for making the relevant applications have been met.

(3) Subject to *subsections (4)* to *(6)*, the Minister may by regulations specify the annual fee to be paid to the AHRRA by holders of a licence and for that purpose—

(a) different amounts may be specified for such holders which fall within different classes of such holders specified in the regulations, and

(b) the regulations may specify the circumstances in which—

(i) an exemption from the payment of such a fee applies, or

(ii) a waiver, remission or refund (whether in whole or in part) of such fee applies.

(4) The Minister shall, when specifying, in regulations made under *subsection (3)*, the annual fee to be paid to the AHRRA by the holders of licences, have regard to the need to defray the costs incurred by the AHRRA in the performance of its functions in relation to the holder concerned.

(5) An annual fee specified in regulations made under *subsection (3)* shall be paid to the AHRRA not later than each anniversary of the date specified for the purpose in the licence concerned.

(6) On and after the establishment day, the Minister shall not make regulations under *subsection (1)* or *(3)* except after consultation with the AHRRA.

(7) In this section, "relevant applications" means—

(a) licence applications,

(b) applications under *section 159(5)*,

(c) applications under *section 160*, or

(d) applications under *section 167*.

Transitional

169. (1) Subject to *subsection (2)*, where, immediately before the establishment day, there is a person under whose supervision a relevant activity is being lawfully undertaken in any premises, then, on and after that day—

(a) that activity shall be deemed to be authorised to be undertaken in those premises pursuant to a licence (in this section referred to as the "deemed licence") granted to that person, and

(b) that person shall be deemed to be the holder of the deemed licence (in this section referred to as the "deemed holder"),

and the other provisions of this Act shall be construed accordingly.

(2) *Paragraphs (a)* and *(b)* of *subsection (1)* shall cease to apply in relation to the relevant activity and person referred to in that subsection immediately upon—

(a) the expiration of 30 days after the establishment day except where the deemed holder has, before the expiration of that period, given a notice in writing to the AHRRA stating—

(i) his or her name and address for service, and

(ii) the address of the premises at which that activity is being undertaken,

(b) the expiration of 6 months after the establishment day except where a licence application is made to the AHRRA before the expiration of that period for the grant of a licence to authorise the undertaking of that activity in those premises (and whether or not it is the deemed holder who makes that application), or

(c) the determination under *section 155* of that application,

whichever first occurs.

(3) (a) A relevant event shall not of itself relieve a relevant person from discharging, on or after the occurrence of such event, the person's obligations, as regards the relevant activity concerned, that existed immediately before such occurrence.

(b) In this subsection—

"relevant activity concerned", in relation to a relevant person, means so much of the relevant activity referred to in *subsection (1)* as is under the supervision of the relevant person;

"relevant event", in relation to a relevant person, means the relevant person ceasing to be the holder of a deemed licence in respect of the relevant activity concerned without becoming the holder of a licence in respect of such activity;

"relevant person" means a person referred to in *subsection (1)*.

(4) *Section 153(4)* shall not apply in the case of a licence application referred to in *subsection (2)*.

PART 11

ENFORCEMENT

CHAPTER 1

Definitions

Definitions - *Part 11*

170. In this Part—

"code of practice" means a code of practice published or approved of under *section 173* as it is in effect from time to time;

"complainant", in relation to a complaint, means the person who made the complaint;

"complaint" means a complaint under *section 180*;

"enforcement notice" means a notice under *section 176(2)*;

"holder" means the holder or former holder, as appropriate, of a licence;

"investigation" means an investigation under *section 182*;

"investigation report", in relation to an investigation, means a report in writing prepared, following the completion of the investigation, by the authorised officer appointed under *section 182(1)(b)* to carry out the investigation—

(a) stating that the authorised officer—

(i) is satisfied that a relevant contravention by the holder of a licence the subject of the investigation has occurred or is occurring, or

(ii) is not so satisfied,

as appropriate,

(b) if *paragraph (a)(i)* is applicable, stating the grounds on which the authorised officer is so satisfied, and

(c) if *paragraph (a)(ii)* is applicable, stating—

(i) the basis on which the authorised officer is not so satisfied, and

(ii) the authorised officer's opinion, in view of such basis, on whether or not a further investigation of the holder of the licence is warranted and, if warranted, the authorised officer's opinion on the principal matters to which the further investigation should relate;

"major sanction", in relation to the holder of a licence, means—

(a) the revocation of the licence and a prohibition (which may be a permanent prohibition, a prohibition for a specified period or a prohibition subject to specified conditions) against the former holder of the licence making a licence application for a new licence or a particular class of licence,

(b) the suspension for a specified period of the licence and a prohibition for a specified period against the holder of the suspended licence making a licence application for a new licence or a particular class of new licence,

(c) a direction to the holder that the holder pay a sum, as specified in the direction but not exceeding €50,000, to the AHRRA, being the whole or part of the cost to the AHRRA of an investigation of the holder, or

(d) any combination of the sanctions specified in *paragraph (a)* or *(b)* with the sanction specified in *paragraph (c)*;

"minor sanction", in relation to the holder of a licence, means—

(a) the issue, to the holder, of—

(i) advice,

(ii) a caution,

(iii) a warning, or

(iv) a reprimand,

or

(b) any combination of any of the sanctions specified in *paragraph (a)*;

"relevant contravention", in relation to the holder or former holder of a licence, means that the holder—

(a) has contravened a relevant provision,

(b) is contravening a relevant provision,

(c) has contravened a relevant provision in circumstances that make it likely that the contravention will continue or be repeated,

(d) has given information to the AHRRA under *Part 10*, in relation to an application made under that Part, that was false or misleading in a material particular, or

(e) has failed to comply with an enforcement notice;

"relevant provision" means a provision of—

(a) a licence, or

(b) this Act.

Chapter 2

Authorised officers

Appointment of authorised officers

171. (1) The AHRRA shall appoint one or more persons, including but not limited to members of staff of the AHRRA, to exercise any or all of the powers conferred on them by this Act and such a person shall be an authorised officer.

(2) Each authorised officer shall be given a certificate of his or her appointment and, when exercising any power conferred on him or her by this Act, shall produce, on request by any person affected, the certificate or a copy of the certificate, together with a form of personal identification.

(3) (a) *Paragraph (b)* applies to an authorised officer appointed under *subsection (1)* who is not a member of staff of the AHRRA.

(b) The authorised officer shall be so appointed as such on such terms and conditions as the AHRRA thinks fit with the approval of the Minister and the consent of the Minister for Public Expenditure, National Development Plan Delivery and Reform.

Powers of authorised officers

172. (1) For the purposes of this Act, an authorised officer may exercise any of the following powers:

(a) enter (if necessary by the use of reasonable force) and inspect, at any reasonable time, any premises—

(i) specified in a licence,

(ii) not specified in a licence but at which he or she has reasonable grounds for believing that a relevant activity is being undertaken, or

(iii) at which he or she has reasonable grounds for believing that books, records or other documents relating to relevant activities are kept;

(b) require any person on the premises referred to in *paragraph (a)* to produce any books, records or other documents relating to relevant activities;

(c) secure for inspection—

(i) any books, records or other documents relating to relevant activities, or

(ii) any premises (or part thereof) in which books, records or other documents relating to relevant activities are kept;

(d) make plans or take photographs or video or other recordings of the premises or any part thereof.

(2) An authorised officer shall not enter a dwelling, other than—

(a) with the consent of the occupier, or

(b) pursuant to a warrant under *subsection (3)*.

(3) Upon the sworn information of an authorised officer, a judge of the District Court may, for the purposes of enabling an authorised officer to carry out an inspection under *subsection (1)*, issue a warrant authorising a named authorised officer, accompanied by such other authorised officers or members of the Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter (if necessary by the use of reasonable force) the dwelling and perform the functions of an authorised officer under *subsection (1)*.

(4) A person shall not—

(a) obstruct or interfere with an authorised officer or a member of the Garda Síochána in the course of exercising a power conferred on him or her by this Act, section 31 of the Act of 2015 or a warrant under *subsection (3)*, or

(b) fail or refuse to comply with a request or requirement of, or to answer a question asked by, an authorised officer, or in purported compliance with such request or requirement or in answer to such question, give information to an authorised officer that he or she knows to be false or misleading in a material particular.

(5) Where an authorised officer believes, upon reasonable grounds, that a person has committed an offence under this Act, the authorised officer may require that person to provide him or her with his or her name and the address at which they ordinarily reside and the person shall comply with that requirement.

(6) Nothing in the Act of 2015 or this Act shall be construed to prevent—

(a) an authorised officer from being appointed as an authorised person under section 30 of the Act of 2015, or

(b) an authorised person under section 30 of the Act of 2015 from being appointed as an authorised officer.

CHAPTER 3

Codes of practice

Codes of practice

173. (1) Subject to *subsection (2)*, the AHRRA may and, at the request of the Minister, shall—

(a) prepare and publish a code of practice, or

(b) approve of a code of practice drawn up by any other body,

for the purpose of providing guidance for the provision or undertaking of relevant activities (including a type of relevant activity).

(2) Before publishing or approving of a code of practice under this section, the AHRRA—

(a) may publish in such manner as the AHRRA considers appropriate a draft of the code and shall allow persons 30 days from the date of publication of the draft code within which to make representations in writing to the AHRRA in relation to the draft code or such further period, not exceeding 30 days, as the AHRRA in its absolute discretion thinks fit, and

(b) following consultation and, where relevant, having considered the representations (if any) made, shall submit the draft code to the Minister for his or her consent to its publication or approval of under this section, with or without modifications.

(3) Where the AHRRA publishes or approves of a code of practice under this section, the Minister shall cause a notice to that effect to be published in *Iris Oifigiúil*—

(a) identifying or specifying the code,

(b) specifying the relevant activity in respect of which the code is so published or approved, as the case may be, and

(c) specifying the date from which the code shall have effect.

(4) The AHRRA may, with the consent of the Minister but subject to *subsection (5)*—

(a) amend or revoke a code of practice published under this section, or

(b) withdraw its approval of any code of practice approved of under this section.

(5) *Subsection (2)* shall, with all necessary modifications, apply to a code of practice that the AHRRA proposes to amend or revoke, or withdraw its approval of, under *subsection (4)* as *subsection (2)* applies to a code of practice that the AHRRA proposes to publish or approve of under this section.

(6) Where the AHRRA amends or revokes, or withdraws its approval of, a code of practice published or approved of under this section, the Minister shall cause a notice to that effect to be published in *Iris Oifigiúil*—

(a) identifying or specifying the code to which the amendment, revocation, or withdrawal, as the case may be, relates and, if applicable, particulars of the amendment,

(b) specifying the relevant activity in respect of which the code is so amended, revoked or withdrawn, as the case may be, and

(c) specifying the date from which the amendment, revocation, or withdrawal, as the case may be, shall have effect.

(7) The AHRRA shall encourage holders, or classes of holders, as applicable, to comply with codes of practice published or approved of under this section (including such a code as amended from time to time under this section).

(8) The AHRRA shall keep posted on its website a copy of each code of practice published or approved of under this section, as the code is in force from time to time, on and from the date on which the code has effect.

(9) In this section (including *subsection (2)(a)*), "code of practice" includes part of a code of practice.

Admissibility of codes of practice

174. A document bearing the seal of the AHRRA and purporting to be a code of practice or, where such a code has been amended under *section 173*, the code as so amended shall be admissible in evidence in any proceedings under this Act or before a court or tribunal.

Chapter 4

Enforcement notices

Application

175. (1) This Chapter shall not apply to a relevant contravention which falls within *paragraph (d)* or *(e)* of the definition of "relevant contravention".

(2) Without prejudice to the generality of *subsection (1)* and subject to *subsection (3)*, this Chapter shall not apply to an alleged relevant contravention the subject of a complaint unless—

(a) the complainant consents in writing to this Chapter applying to such contravention instead of *Chapter 6*, or

(b) the complaint is withdrawn.

(3) (a) *Subsection (2)(a)* shall not be construed to prevent the AHRRA from continuing to deal with the matter the subject of a complaint under *Chapter 6* instead of this Chapter.

(b) *Subsection (2)(b)* shall not be construed to prevent the AHRRA from dealing with the matter the subject of the complaint under this Chapter instead of *Chapter 6* or from declining to deal with such matter under either such Chapter.

Issue of enforcement notices

176. (1) *Subsection (2)* applies where the AHRRA is of the opinion (in this section referred to as the "relevant opinion") that a relevant contravention by a holder may have occurred or may be occurring.

(2) Without prejudice to the generality of the other provisions of this Part, the AHRRA may give the holder a notice in writing, accompanied by a copy of this Chapter—

(a) stating the relevant opinion,

(b) specifying the relevant contravention as to which it is of that opinion and the reasons why it is of that opinion,

(c) directing the holder to take such steps as are specified in the notice to remedy the relevant contravention or, as the case may be, the matters occasioning it, and

(d) specifying a period (ending not earlier than the period specified in *section 177(1)*) within which an application under that section to cancel a direction specified in the notice may be made within which those steps must be taken.

(3) The AHRRA shall not give the holder an enforcement notice unless, in the interests of procedural fairness, the AHRRA has first—

(a) given the holder notice in writing stating the nature of the enforcement notice that the AHRRA is minded to give to the holder and the reasons why the AHRRA is so minded,

(b) given the holder a reasonable opportunity, in the circumstances concerned, to make representations in writing to the AHRRA on what is stated in the notice referred to in *paragraph (a)*, and

(c) had regard to the representations (if any) referred to in *paragraph (b)* made to the AHRRA.

(4) The steps specified in an enforcement notice to remedy any relevant contravention to which the notice relates may be framed so as to afford the holder a choice between different ways of remedying the contravention.

(5) Where the holder to whom an enforcement notice has been given makes an application under *section 177(1)* to cancel a direction specified in the notice, the steps specified in the notice, in so far as they relate to that direction, need not be taken by the holder pending the determination, withdrawal or abandonment of the application.

(6) The AHRRA may cancel an enforcement notice by notice in writing given to the holder.

(7) Where the holder fails to take the steps specified in an enforcement notice given to him or her, the AHRRA may, on notice to the holder, apply in a summary manner to the court for an order requiring the holder to take those steps (or to take such varied or other steps for the like purpose as may be specified in the order), and the court—

(a) may—

(i) make the order sought,

(ii) make the order sought subject to such variations to those steps as may be specified in the order, or

(iii) make the order sought subject to such other steps for the like purpose as may be specified in the order,

or

(b) may dismiss the application,

and whether *paragraph (a)* or *(b)* is applicable, may make such order as to the costs as it thinks fit in respect of the application.

Application for cancellation of direction specified in enforcement notice

177. (1) The holder to whom an enforcement notice has been given may, on notice to the AHRRA, not later than 30 days after being given the notice, apply to the court for the cancellation of any direction specified in the notice and, on such an application, the court may—

(a) cancel the direction,

(b) confirm the direction, or

(c) vary the direction,

and whether *paragraph (a)*, *(b)* or *(c)* is applicable, make such order as to costs as it thinks fit in respect of the application.

(2) The decision of the court on a direction specified in an enforcement notice shall be final save that, by leave of the High Court, an appeal by the holder, or the AHRRA, as the case may be, from the decision shall lie to the High Court on a question of law.

Rules of court

178. Rules of court may make provision for the expedition of the hearing of proceedings under this Chapter.

CHAPTER 5

Automatic termination of licence

Automatic termination of licence

179. (1) Subject to *Chapter 7*, a licence terminates immediately upon the occurrence of any of the following events:

(a) where the holder of the licence is an individual, the holder—

(i) dies,

(ii) is adjudicated bankrupt (whether in the State or elsewhere), or

(iii) becomes an arranging debtor (whether in the State or elsewhere);

(b) where the holder of the licence is a body corporate—

(i) the holder commences a voluntary winding-up or becomes subject to a winding-up order,

(ii) a receiver or examiner is appointed to the holder,

(iii) the holder proposes a compromise or arrangement that is sanctioned under section 453(2) of the Act of 2014, or

(iv) where the body is incorporated under the laws of another state, on the commencement of any event which corresponds to an event referred to in *subparagraph (i)*, *(ii)* or *(iii)*.

(2) (a) Where *subsection (1)(a)(i)* applies to the holder of a licence, the personal representative of the former holder's estate shall, as soon as is practicable after the death of the former holder, give notice in the specified form to the AHRRA informing the AHRRA of such death.

(b) Where *subsection (1)(a)(ii)* or *(iii)* applies to the holder of a licence, the former holder shall, as soon as is practicable after that subsection so applies, give notice in the specified form to the AHRRA informing the AHRRA of such application.

(3) (a) Where *subsection (1)(b)(i)*, *(iii)* or *(iv)* applies to the holder of a licence, the former holder shall, as soon as is practicable after that subsection so applies, give

notice in the specified form to the AHRRA informing the AHRRA of such application.

(b) Where *subsection (1)(b)(ii)* applies to the holder of a licence, the receiver or examiner concerned shall, as soon as is practicable after that subsection so applies, give notice in the specified form to the AHRRA informing the AHRRA of such application.

(4) The AHRRA shall, as soon as is practicable after it becomes aware of the termination under this section of a licence, publish a notice on its website—

(a) stating the name of the holder,

(b) giving the particulars of the licence sufficient to identify the licence,

(c) stating the ground under *subsection (1)* on which the licence was terminated, and

(d) the date on which the termination occurred.

Chapter 6

Complaints, investigations and sanctions

Complaints against holders

180. (1) A person may make a complaint in the specified form to the AHRRA alleging that a relevant contravention by a holder may have occurred or may be occurring.

(2) Subject to *section 175*, where the AHRRA receives a complaint, it shall cause an investigation of the matter, the subject of the complaint, to be carried out unless it is satisfied that the complaint—

(a) is not made in good faith,

(b) is frivolous or vexatious or without substance or foundation, or

(c) would be more appropriately dealt with by another body or authority given the nature of such matter.

(3) Where the AHRRA decides that a complaint falls within *subsection (2)(a)*, *(b)* or *(c)*, it shall give notice in writing to the complainant and the holder to whom the complaint relates of the decision and the reasons for the decision.

(4) Subject to *section 175*, where a complaint is withdrawn by a complainant before the investigation report which relates to the complaint has been submitted to the AHRRA pursuant to *section 183(2)*, the AHRRA may proceed as if the complaint had not been withdrawn if it is satisfied that there is good and sufficient reason for so doing.

(5) Where, pursuant to *subsection (4)*, the AHRRA proceeds as if a complaint had not been withdrawn, the investigation concerned shall thereupon be treated as an investigation initiated by the AHRRA, and the other provisions of this Act shall be construed accordingly.

Circumstances in which application may be made to High Court for immediate suspension of licence, etc.

181. (1) Without prejudice to *subsection (4)*, where the AHRRA considers that the immediate suspension of the licence of a holder (whether or not the holder is the subject of a complaint) is necessary to protect the integrity of the relevant activity provided or undertaken by the holder, until steps or further steps are taken under *Chapter 4* or this Chapter, the AHRRA may, on notice to the holder, make an application in a summary manner *ex parte* to the High Court for an order to suspend the licence.

(2) The High Court may determine an application under *subsection (1)* by—

(a) making any order that it considers appropriate, including an order suspending the licence of the holder the subject of the application for such period, or until the occurrence of such event, as is specified in the order, and

(b) giving to the AHRRA any other direction that the High Court considers appropriate.

(3) The AHRRA shall, on complying with a direction of the High Court under *subsection (2)(b)*, give notice in writing to the holder concerned of the AHRRA's compliance with the direction.

(4) *Section 187(3)* and *(4)* and *Chapter 8* shall, with all necessary modifications, apply to a licence suspended under *subsection (2)* as they apply to a licence suspended pursuant to a decision confirmed or given under *section 185(3)* or *186(2)*.

Investigations

182. (1) Subject to *section 180(2)* and *(4)*, the AHRRA—

(a) shall, following the receipt of a complaint, or may of its own volition, cause such investigation as it thinks fit to be carried out to identify any relevant contravention, and

(b) for the purposes of the investigation, shall appoint an authorised officer, subject to such terms and conditions as it thinks fit—

(i) to carry out the investigation, and

(ii) to submit to it an investigation report following the completion of the investigation.

(2) The AHRRA may appoint more than one authorised officer to carry out an investigation but, in any such case, the investigation report concerned shall be prepared jointly by the authorised officers so appointed and the other provisions of this Act (including the definition of "investigation report" in *section 170* and *section 183*) shall, with all necessary modifications, be construed accordingly.

(3) The terms and conditions of appointment of an authorised officer may define the scope of the investigation to be carried out by the authorised officer, whether as respects the matters or the period to which it is to extend or otherwise, and in

particular may limit the investigation to matters connected with particular circumstances.

(4) Where the AHRRA has appointed an authorised officer to carry out an investigation, the authorised officer shall, as soon as is practicable after being so appointed—

(a) if the investigation arises in consequence of the receipt of a complaint by the AHRRA—

(i) give notice in writing to the holder to whom the complaint relates of the receipt of the complaint and setting out particulars of the complaint,

(ii) give the holder—

(I) copies of any documents relevant to the investigation, and

(II) a copy of this Part,

and

(iii) without prejudice to the generality of *section 172*, afford to the holder an opportunity to respond within 30 days from the date on which the holder received the notice referred to in *subparagraph (i)*, or such further period not exceeding 30 days as the authorised officer allows, to the complaint,

(b) if the investigation arises on the volition of the AHRRA—

(i) give notice in writing to the holder concerned of the matters to which the investigation relates, and

(ii) give the holder—

(I) copies of any documents relevant to the investigation, and

(II) a copy of this Part,

and

(iii) without prejudice to the generality of *section 172*, afford the holder an opportunity to respond within 30 days from the date on which the holder received the notice referred to in *subparagraph (i)*, or such further period not exceeding 30 days as the authorised officer allows, to the matter to which the investigation relates.

(5) Where an investigation arises in consequence of the receipt of a complaint by the AHRRA, the authorised officer appointed to carry out the investigation—

(a) shall, as soon as is practicable, give the complainant a copy of the notice referred to in *subsection (4)(a)(i)* given to the holder to whom the complaint relates, and

(b) shall make reasonable efforts to ensure that the complainant is kept informed of progress on the investigation.

Actions to be taken by authorised officer and AHRRA upon completion of investigation

183. (1) Subject to *subsection (3)*, where an authorised officer has completed an investigation, the authorised officer shall, as soon as is practicable after having considered, in so far as they are relevant to the investigation, any information or books, records or other documents (whether kept in manual form or otherwise) provided to the authorised officer pursuant to any requirement under *section 172*, any statement or admission made by any person pursuant to any requirement under that section, any submissions made and any evidence presented—

(a) prepare a draft of the investigation report, and

(b) give to the holder the subject of the investigation and, if the investigation arose in consequence of the receipt of a complaint, the complainant—

(i) a copy of the draft of the investigation report,

(ii) a copy of this section, and

(iii) a notice in writing stating that the holder and the complainant (if any) may, not later than 30 days from the date on which the notice was respectively received by them, or such further period not exceeding 30 days as the authorised officer allows, each make submissions in writing to the authorised officer on the draft of the investigation report.

(2) Subject to *subsection (3)*, an authorised officer who has complied with *subsection (1)* following the completion of an investigation shall, as soon as is practicable after—

(a) the expiration of the period or further period, as appropriate, referred to in *subsection (1)(b)(iii)*, and

(b) having—

(i) considered the submissions (if any) referred to in *subsection (1)(b)(iii)* made before the expiration of that period on the draft of the investigation report concerned, and

(ii) made any revisions to the draft of the investigation report which, in the opinion of the authorised officer, are warranted following such consideration,

prepare the final form of the investigation report and submit it to the AHRRA with any such submissions annexed to the report.

(3) Where an authorised officer states, whether in a draft of the investigation report or in the final form of the investigation report, that he or she is satisfied that a relevant contravention by the holder to whom the investigation relates has occurred or is occurring, the authorised officer shall not make any recommendation, or express any opinion, in the report as to the minor sanction or major sanction that he or she thinks ought to be imposed on the holder in respect of such contravention in the event that the AHRRA is also satisfied that a relevant contravention by the holder has occurred or is occurring.

(4) Subject to *subsection (5)*, where the AHRRA has considered an investigation report (and any submissions annexed thereto) submitted to it pursuant to *subsection (2)*, the AHRRA—

(a) if it is satisfied that a relevant contravention by the holder the subject of the investigation has occurred or is occurring, shall, subject to *subsection (6)* and *section 184*—

(i) impose a minor sanction on the holder, or

(ii) impose a major sanction on the holder,

as it thinks fit in the circumstances of the case,

(b) if it is not satisfied that a relevant contravention by the holder the subject of the investigation has occurred or is occurring but is of the opinion that a further investigation of the holder is warranted, shall cause the further investigation to be carried out pursuant to its powers under *section 182(1)*, or

(c) if it is not satisfied that a relevant contravention by the holder to whom the investigation relates has occurred or is occurring and is not of the opinion that a further investigation of the holder is warranted, and the investigation arose from a complaint, shall dismiss the complaint.

(5) The AHRRA shall, as soon as is practicable after making a decision under *subsection (4)*, give notice in writing of the decision and the reasons for the decision to the holder the subject of the investigation concerned and, if *subsection (4)(a)* applies in the case of that holder, set out in that notice—

(a) the minor sanction or major sanction imposed on the holder for the relevant contravention specified in the notice in respect of which the AHRRA is satisfied as referred to in that subsection, and

(b) the reasons for the imposition of such minor sanction or major sanction, as the case may be.

(6) Where *subsection (4)(a)* applies in the case of a holder, the AHRRA shall, in deciding the minor sanction or major sanction to be imposed on the holder, take into consideration the matters referred to in *section 188*.

(7) Where *subsection (4)* applies in the case of an investigation which arose from a complaint, the AHRRA shall give the complainant a copy of the notice under *subsection (5)* given or to be given to the holder the subject of the investigation at the same time as the notice is given to the holder or as soon as is practicable thereafter.

Confirmation of High Court required before decision under *section 183(4)(a)* to impose major sanction takes effect

184. Subject to *section 181*, a decision under *section 183(4)(a)* to impose a major sanction on a holder shall not take effect unless the decision is confirmed by the High Court under *section 185(3)* or *186(2)*.

Appeal to High Court against decision to impose major sanction

185. (1) A holder the subject of a decision under *section 183(4)(a)* by the AHRRA to impose a major sanction on the holder may, not later than 30 days from the date the holder received the notice under *section 183(5)* of the decision and on notice to the AHRRA, appeal to the High Court against the decision.

(2) The High Court may, on the hearing of an appeal under *subsection (1)* by a holder, consider any evidence adduced or argument made, whether or not adduced or made to an authorised officer or the AHRRA.

(3) Subject to *subsection (4)*, the High Court may, on the hearing of an appeal under *subsection (1)* by a holder—

(a) either—

(i) confirm the decision the subject of the appeal, or

(ii) cancel that decision and replace it with such other decision as the Court considers appropriate, which may be a decision—

(I) to do either or both of the following:

(A) impose a different major sanction on the holder;

(B) impose a minor sanction on the holder,

or

(II) to impose neither a major sanction nor a minor sanction on the holder,

and

(b) whether *paragraph (a)(i)* or *(ii)* is applicable, make such order as to costs as it thinks fit in respect of the appeal.

(4) The High Court shall, for the purposes of *subsection (3)(a)(i)* or *(ii)(I)*, take into consideration the matters referred to in *section 188*.

Application to High Court to confirm decision to impose major sanction

186. (1) Where a holder does not, within the period allowed under *section 185(1)*, appeal to the High Court against a decision under *section 183(4)(a)* by the AHRRA to impose a major sanction on the holder, the AHRRA shall, as soon as is practicable after the expiration of that period and on notice to the holder, make an application in a summary manner to the High Court for confirmation of the decision.

(2) The High Court shall, on the hearing of an application under *subsection (1)*, confirm the decision under *section 183(4)(a)* the subject of the application unless the Court considers that there is good reason not to do so.

Provisions supplementary to *sections 185* and *186*

187. (1) The decision of the High Court on an appeal under *section 185(1)* or an application under *section 186(1)* is final except that the AHRRA or the holder the subject of the

decision may, by leave of that Court or the Court of Appeal, appeal against the decision to the Court of Appeal on a specified question of law.

(2) Where the High Court confirms or gives a decision under *section 185(3)* or *186(2)*, the AHRRA shall, as soon as is practicable after the decision is confirmed or given, as the case may be, give notice in writing of the decision to the holder the subject of the decision and, if the decision provides for the imposition of a major sanction on the holder, particulars of the major sanction including, in the case of a major sanction which falls within *paragraph (a)* or *(b)* of the definition of "major sanction" in *section 170*, the day on which the major sanction takes effect, being a day not earlier than 7 days from the date on which the decision is confirmed or given.

(3) Subject to *Chapter 7*, a licence which is suspended pursuant to a decision confirmed or given under *section 185(3)* or *186(2)* by the High Court shall not be in force during the period of its suspension.

(4) A holder whose licence has been revoked or suspended pursuant to a decision confirmed or given under *section 185(3)* or *186(2)* by the High Court shall comply with any directions of the AHRRA given to the person in respect of the surrender or temporary surrender of the licence and any copies thereof.

(5) Where an investigation arose from a complaint, the AHRRA shall give to the complainant a copy of a notice given or to be given under *subsection (2)* to a holder at the same time as the notice is given to the holder or as soon as is practicable thereafter.

Matters to be considered in determining sanctions to be imposed

188. (1) The AHRRA or the High Court, as appropriate, in considering—

(a) the minor sanction or major sanction to be imposed on a holder pursuant to *section 183(4)(a)*, or

(b) the minor sanction (if any) or major sanction (if any) to be imposed on a holder pursuant to a decision confirmed or given under *section 185(3)* or *186(2)*,

shall take into account the circumstances of the relevant contravention concerned (including the factors occasioning it).

(2) Without prejudice to the generality of *subsection (1)*, the AHRRA or the High Court, as appropriate, may, in relation to the holder of the licence concerned, have regard to—

(a) the need to ensure that any sanction imposed—

(i) is appropriate and proportionate to the relevant contravention, and

(ii) if applicable, will act as a sufficient incentive to ensure that any like relevant contravention will not occur in the future,

(b) the seriousness of the relevant contravention,

(c) the extent of any failure by the holder to co-operate with the investigation concerned of the holder,

(d) any excuse or explanation by the holder for the relevant contravention or failure to co-operate with the investigation concerned,

(e) the duration of the relevant contravention,

(f) the repeated occurrence of relevant contraventions by the holder,

(g) if applicable, the continuation of the relevant contravention after the holder was notified of the investigation concerned,

(h) if applicable, the absence, ineffectiveness or repeated failure of internal mechanisms or procedures of the holder intended to prevent relevant contraventions from occurring,

(i) if applicable, the extent and timeliness of any steps taken to end the relevant contravention and any steps taken for remedying the consequences of the relevant contravention, and

(j) any precedents set by a court, the AHRRA or another person in respect of previous relevant contraventions.

Protection for persons reporting relevant contravention, etc.

189. (1) Subject to *subsection (3)*, a person who, apart from this section, would be so liable shall not be liable in damages in respect of the communication to the AHRRA, whether in writing or otherwise, of his or her opinion that any relevant contravention by a holder may have occurred or may be occurring, or that a contravention of a provision of this Act by a person other than a holder may have been or may be being committed, unless—

(a) in communicating his or her opinion to the AHRRA did so—

(i) knowing it to be false, misleading, frivolous or vexatious, or

(ii) reckless as to whether it was false, misleading, frivolous or vexatious,

or

(b) in connection with the communication of his or her opinion to the AHRRA, gave information that he or she knew to be false or misleading in a material particular.

(2) The reference in *subsection (1)* to liability in damages shall be construed as including a reference to liability to any other form of relief.

(3) *Subsection (1)* shall not apply to a communication, or giving of information, that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(4) *Subsection (1)* is in addition to, and not in substitution for, any privilege or defence available in legal proceedings, by virtue of any statutory provision or rule of law in force immediately before the coming into operation of this section, in respect of the communication by a person to another (whether that other person is the AHRRA or not) of an opinion of the kind referred to in *subsection (1)*.

(5) Subject to *subsection (6)*, an employer shall not penalise or threaten penalisation against an employee, or cause or permit any other person to penalise or threaten penalisation against an employee, for—

(a) having formed an opinion of the kind referred to in *subsection (1)* and communicated it, whether in writing or otherwise, to the AHRRA unless the employee—

(i) in communicating his or her opinion to the AHRRA did so—

(I) knowing it to be false, misleading, frivolous or vexatious, or

(II) reckless as to whether it was false, misleading, frivolous or vexatious,

or

(ii) in connection with the communication of his or her opinion to the AHRRA, gave information that he or she knew to be false or misleading in a material particular,

or

(b) giving notice of his or her intention to do the thing referred to in *paragraph (a)*.

(6) *Subsection (5)* shall not apply to a communication, or giving of information, that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(7) *Schedule 7* shall have effect for the purposes of *subsection (5)*.

(8) In this section—

"contract of employment" means a contract of employment or of service or of apprenticeship, whether the contract is express or implied and, if express, whether it is oral or in writing;

"employee" means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

"employer", in relation to an employee, means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, and includes—

(a) a person (other than an employee of that person) under whose control and direction an employee works, and

(b) where appropriate, the successor of the employer or an associated employer of the employer;

"penalisation" means any act or omission by an employer, or by a person acting on behalf of an employer, that affects an employee to his or her detriment with respect to any term or condition of his or her employment, and, without prejudice to the generality of the foregoing, includes—

(a) suspension, lay-off or dismissal,

(b) the threat of suspension, lay-off or dismissal,

(c) demotion or loss of opportunity for promotion,

(d) transfer of duties, change of location of place of work, reduction in wages or change in working hours,

(e) the imposition or the administering of any discipline, reprimand or other penalty (including a financial penalty),

(f) unfair treatment, including selection for redundancy,

(g) coercion, intimidation or harassment,

(h) discrimination, disadvantage or adverse treatment,

(i) injury, damage or loss, and

(j) threats of reprisal.

(9) For the purposes of this section, a reference to "dismissal" includes—

(a) a dismissal within the meaning of the Unfair Dismissals Acts 1977 to 2015, and

(b) a dismissal wholly or partly for or connected with the purpose of the avoidance of a fixed-term contract being deemed to be a contract of indefinite duration under section 9(3) of the Protection of Employees (Fixed-Term Work) Act 2003.

(10) *Paragraphs (a)*, *(c)*, *(d)*, *(e)* and *(f)* of the definition of "penalisation" in *subsection (8)* shall not be construed in a manner which prevents an employer from—

(a) ensuring that the business concerned is carried on in an efficient manner, or

(b) taking any action required for economic, technical or organisational reasons.

Chapter 7

Provisions supplementary to Chapters 5 and 6

Effect of termination or revocation of licence

190. (1) On and after the date, or the occurrence of the event, as the case may be, on which the termination or revocation of a licence under *Chapter 5* or *6*, as the case may be, takes effect, the holder of the licence shall cease to be able to exercise any powers under the licence.

(2) All the holder's obligations under the licence or this Act shall continue to apply to the holder and the holder shall continue to discharge the obligations unless—

(a) the effect of *subsection (1)* prevents the holder from doing so, or

(b) in the case of the revocation of a licence under *Chapter 6*, the notice concerned under *section 187(2)* specifies that the holder is not required to discharge the obligation concerned.

Effect of suspension of licence

191. Where a licence is for the time being suspended under *Chapter 6*—

(a) the only powers which may be exercised under the licence during the suspension are those specified for the purpose in the order concerned under *section 181(2)* or the notice concerned under *section 187(2)*, and

(b) all of the holder's obligations under the licence or this Act continue to apply to the holder and the holder shall continue to discharge the obligations unless—

(i) the effect of *paragraph (a)* prevents the holder from doing so, or

(ii) the notice concerned under *section 187(2)* specifies that the holder is not required to comply with the obligation concerned during such suspension.

No fee refundable following termination, revocation or suspension of licence, etc.

192. The termination under *Chapter 5*, or the revocation or suspension under *Chapter 6*, as the case may be, of a licence shall not entitle the holder to—

(a) any refund of all or any part of any specified fee the holder has paid to the AHRRA pursuant to this Act in relation to the licence, or

(b) any compensation from the State in relation to any expenditure, or loss of income, incurred by the holder in relation to the licence.

CHAPTER 8

Offences and related provisions

Offences - general

193. (1) A person who contravenes *section 9* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding five years, or both.

(2) A holder who contravenes *section 10* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding three years, or both.

(3) A person who contravenes *section 29(1)* or *(2)*, *35(1)*, *52(2)* or *(3)*, *53(1)*, *57(3)*, *60(1)*, *89(2)* or *(3)*, *90(1)*, *93(3)*, *96(1)* or *172(4)* or *(5)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding two years, or both.

(4) Without prejudice to the generality of the powers of the court to enforce an order under *section 176(7)(a)*, if the holder concerned fails to comply with the order, the holder shall be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding €250,000.

(5) Subject to *subsection (6)*, a person who makes a communication under *section 189(1)* which the person knows to be false, that any relevant contravention by a holder may have occurred or may be occurring, or that a contravention of a provision of this Act by a person other than a holder may have or may be being committed, shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years, or both.

(6) *Subsection (5)* shall not apply to a communication that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.

(7) A person who, without reasonable excuse, contravenes a direction referred to in *section 187(4)* shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both.

(8) An employer who contravenes *section 189(5)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine and imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years, or both.

False or misleading information

194. (1) Any relevant person who knowingly or recklessly provides the AHRRA with information which is false or misleading in a material particular in his or her capacity as a relevant person shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding five years, or both.

(2) In this section, "relevant person" means—

(a) in the case of a licence application, the applicant, or

(b) a holder.

Obstruction

195. (1) A person shall not interfere with or otherwise obstruct (including obstruct by withholding information reasonably required by, or by knowingly or recklessly providing false or misleading information to)—

(a) the AHRRA,

(b) a member of staff of the AHRRA,

(c) a public body that has entered into an agreement with the AHRRA under *section 125*, or

(d) a member of staff of a public body referred to in *paragraph (c)*,

in the performance of their respective functions under this Act.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €10,000 or imprisonment for a term not exceeding 3 years, or both.

Evidentiary presumptions

196. (1) The AHRRA may, by notice in writing, authorise the chief executive officer or another officer of the AHRRA to give, on the AHRRA's behalf, a certificate under this section.

(2) In proceedings, a certificate signed by an authorised person containing a relevant statement shall, without further proof of the signature of the person purporting to sign the certificate or that the person was an authorised person, be evidence, unless the contrary is shown, of the matters the subject of the relevant statement.

(3) A certificate under this section may contain two or more relevant statements.

(4) In this section—

"authorised person" means the chief executive officer or another officer of the AHRRA authorised under *subsection (1)* by the AHRRA to give, on the AHRRA's behalf, a certificate under this section;

"relevant statement" means either or both of the following statements:

(a) a statement to the effect that the person specified in the statement was or was not the holder of a licence on the date or dates specified in the licence;

(b) a statement to the effect that the particulars (including the particulars relating to conditions referred to in *section 156*) specified in the statement were the

particulars of a licence specified in the statement on the date or dates specified in the licence.

Offences by bodies corporate

197. (1) Where an offence under this Act is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Vicarious liability

198. (1) Anything done by a person in the course of his or her employment shall, in any proceedings brought under this Act, be treated, for the purposes of this Act, as done also by that person's employer, whether or not it was done with the employer's knowledge or approval.

(2) Anything done by a person as agent for another person, with the authority (whether express or implied and whether precedent or subsequent) of that other person shall, in any proceedings brought under this Act, be treated as done also by that other person.

(3) Subject to *subsection (4)*, in proceedings brought under this Act against an employer in respect of an act alleged to have been done by an employee of the employer, it shall be a defence for the employer to prove that the employer took such steps as were practicable to prevent the employee—

(a) from doing that act, or

(b) from doing in the course of his or her employment acts of that description.

(4) *Subsection (3)* shall not apply to any civil proceedings, whether under this Act or otherwise.

(5) In this section—

"contract of employment" means a contract of employment or of service or of apprenticeship, whether the contract is express or implied and, if express, whether it is oral or in writing;

"employee" means a person who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer;

"employer", in relation to an employee, means the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, and includes—

(a) a person (other than an employee of that person) under whose control and direction an employee works, and

(b) where appropriate, the successor of the employer or an associated employer of the employer.

Summary proceedings

199. An offence under this Act may be prosecuted summarily by the AHRRA.

Time limit for offences that may only be brought by summary proceedings

200. (1) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under this Act to which that provision applies may be instituted—

(a) within 12 months after the date on which the offence was committed,

(b) within 6 months after the date on which evidence sufficient, in the opinion of the person instituting the proceedings, to justify proceedings comes to that person's knowledge,

whichever is the later, provided that no such proceedings shall be commenced later than 2 years after the date on which the offence concerned was committed.

(2) For the purposes of *subsection (1)(b)*, a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence referred to in that subsection came to his or her knowledge shall be evidence of that date and, in any legal proceedings, a document purporting to be a certificate under this subsection and to be so signed shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

(3) *Subsections (1)* and *(2)* shall not be construed to prejudice the generality of section 7 of the Criminal Justice Act 1951.

Costs of prosecutions

201. (1) The court shall, unless it is satisfied that there are special and substantial reasons for not so doing, where a person is convicted of an offence under this Act, order the person to pay the Minister or the AHRRA, as appropriate, the costs and expenses of the action, measured by the court.

(2) Where costs or expenses are to be paid to the Minister or the AHRRA, they shall include any such costs or expenses reasonably incurred by either of them in relation to the investigation, detection and prosecution of the offence, including costs incurred in respect of the remuneration and other expenses of employees, consultants and advisers.

PART 12

PAST DOMESTIC AND INTERNATIONAL SURROGACY

CHAPTER 1

Past domestic surrogacy

Definitions – *Chapter 1*

202. In this Chapter—

"Court" means the High Court;

"parental order" means an order granted by the Court under *section 205* for the transfer of the parentage of a child;

"past domestic surrogacy" means a surrogacy agreement—

(a) entered into before the commencement of *section 204* by—

(i) a surrogate mother who has been habitually and lawfully resident in the State, immediately before so entering into the agreement—

(I) for such period longer than one year as may be prescribed, or

(II) if no such period stands prescribed, for not less than one year,

and

(ii) either—

(I) both intending parents, not less than one of whom has been habitually and lawfully resident in the State, immediately before so entering into the agreement—

(A) for such period longer than one year as may be prescribed, or

(B) if no such period stands prescribed, for not less than one year,

or

(II) in the case of a single intending parent, that intending parent where he or she has been habitually and lawfully resident in the State, immediately before so entering into the agreement—

(A) for such period longer than one year as may be prescribed, or

(B) if no such period stands prescribed, for not less than one year,

and

(b) under which the embryo transfer was undertaken—

(i) before the commencement of *section 204*, and

(ii) either—

(I) in the State, or

(II) in a place outside the State where the person who undertook such transfer was authorised to do so under the law of that place;

"relevant child" shall be construed in accordance with *section 204(1)*;

"*section 204* application" shall be construed in accordance with *section 204(1)*;

"surrogacy agreement (P)" means a surrogacy agreement referred to in the definition of "past domestic surrogacy".

Operation of Chapter and *section 151* before establishment day, etc.

203. (1) A reference in this Chapter (other than in *subsection (3)*) to the AHRRA shall, before the establishment day, be construed as a reference to the Minister.

(2) The Minister may, before the establishment day and for the purposes of specifying the form of documents required for the purposes of this Chapter, exercise the AHRRA's power under *section 151* as if a reference in that section to the AHRRA were a reference to the Minister.

(3) (a) A reference in this Chapter to the National Surrogacy Register shall, before the establishment day, be construed as a reference to a register (in this subsection referred to as the "interim register") established and maintained by the Minister for the purposes of making entries in the interim register, before the establishment day, required by the provisions of this Chapter that would, if this section had commenced on the establishment day, be required to be made in the National Surrogacy Register.

(b) The Minister shall, as soon as is practicable on or after the establishment day, give the interim register to the AHRRA.

(c) The AHRRA shall, as soon as is practicable after it is given the interim register, transpose the entries in the interim register from that register to the National Surrogacy Register in such manner as the AHRRA thinks fit.

Application for parental order - past domestic surrogacy

204. (1) (a) Subject to *subsections (2)* to *(8)*, an application (in this Chapter referred to as a "*section 204* application") may be made to the Court for a parental order in respect of a child (in this Chapter referred to as the "relevant child") who was born in the State as a result of AHR treatment provided pursuant to a surrogacy agreement (P).

(b) A *section 204* application shall be accompanied by the required particulars specified in Part 2C of the First Schedule to the Act of 2004.

(c) A *section 204* application shall be accompanied by the following particulars:

(i) in the case of the surrogate mother, to the extent known—

(I) her name,

(II) her date and place of birth,

(III) her nationality, and

(IV) her address and contact details;

(ii) in the case of each intending parent—

(I) his or her name,

(II) his or her date of birth,

(III) whether or not he or she provided a gamete used in the agreement, and

(IV) his or her address and contact details.

(2) A *section 204* application may be made by—

(a) the intending parents or one of them (or, in the case of a single intending parent, that intending parent), or

(b) the relevant child.

(3) The following shall be parties to a *section 204* application:

(a) the intending parents (or, in the case of a single intending parent, that intending parent);

(b) the surrogate mother;

(c) the relevant child.

(4) A *section 204* application shall be accompanied by evidence that—

(a) the surrogacy agreement to which the application relates is a surrogacy agreement (P),

(b) the embryo from which the relevant child was born—

(i) was created using a gamete from not less than one of the intending parents of that child (or, in the case of a single intending parent of that child, was created using a gamete from that intending parent),

(ii) was not created using an egg from the surrogate mother, and

(iii) where the surrogate mother was party to a subsisting marriage at the time the embryo transfer was undertaken, was not created using the sperm of the husband of the marriage,

and

(c) subject to *subsection (9)*, the relevant child resides with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) named on the application.

(5) Subject to *subsection (6)*, a *section 204* application shall be made not later than—

(a) the 3rd anniversary of the commencement of this section, or

(b) 6 months after the birth of the relevant child,

whichever is the later.

(6) The Court may extend the time referred to in *subsection (5)* if it is satisfied that—

(a) there are exceptional circumstances justifying the extension, and

(b) it is in the best interests of the relevant child to do so.

(7) Subject to *subsection (9)*, a *section 204* application in respect of the relevant child shall only be made if any living sibling or half-sibling who was born as a result of the same pregnancy the subject of the surrogacy agreement (P) concerned is also the subject of the application.

(8) Without prejudice to the generality of *section 205(6)* and *(7)*, the AHRRA and the Attorney General shall be served with a copy of a *section 204* application.

(9) *Subsections (4)(c)* and *(7)* shall not apply where the relevant child has attained the age of 18 years.

Grant of parental order and relevant child (*Chapter 1*)

205. (1) Subject to *subsections (2)* to *(4)*, the Court may grant an order pursuant to a *section 204* application if it is satisfied that—

(a) subject to *section 204(9)*, the evidence referred to in *subsection (4)* of *section 204* proves the matters referred to in *paragraphs (a)*, *(b)* and *(c)* of that subsection,

(b) the intending parents (or, in the case of a single intending parent, that intending parent) named in the application consent to the granting of the order,

(c) subject to *paragraph (g)*, the surrogate mother consents to the granting of the order and the recording of information required under *section 207*, including confirmation that she understands that the relevant child may, in accordance with the provisions of this Chapter—

(i) access the information specified in *section 207(2)*, and

(ii) seek to contact any or all parties to the surrogacy agreement (P),

(d) at the time of the hearing of the application, where the relevant child has not attained the age of 18 years, the child continues to reside with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) named on the application,

(e) subject to *paragraph (g)*, where the relevant child has attained the age of 18 years, he or she consents to the granting of the order,

(f) where the relevant child has not attained the age of 18 years, the granting of the order is in the best interests of the child, and

(g) a consent referred to in *paragraph (c)* or *(e)* was given by a person—

(i) voluntarily,

(ii) when he or she had the capacity to do so, and

(iii) only after he or she had received independent legal advice from a legal practitioner about the legal implications of giving such consent.

(2) (a) The Court may waive a requirement under *subsection (1)* for consent from an intending parent, in the case of two intending parents, if he or she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find him or her, or

(iii) lacks the capacity to make a decision in that regard.

(b) The Court may waive a requirement under *subsection (1)* for consent from the surrogate mother if she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find her, or

(iii) lacks the capacity to make a decision in that regard.

(c) The Court may waive a requirement under *subsection (1)* for consent from the relevant child if he or she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find him or her, or

(iii) lacks the capacity to make a decision in that regard.

(3) In determining, under *subsection (1)(f)*, what is in the best interests of the relevant child, the Court shall have regard to all the circumstances that it considers relevant to the child, including—

(a) the child's age and maturity,

(b) the physical, psychological and emotional needs of the child,

(c) the likely effect of the granting of the parental order on the child,

(d) the child's social, intellectual and educational needs,

(e) the child's upbringing and care,

(f) the child's relationship with his or her intending parents (or, in the case of a single intending parent, that intending parent), and

(g) any other particular circumstances pertaining to the child.

(4) The Court shall, in relation to its consideration of a *section 204* application and in so far as is practicable, in respect of any relevant child who is capable of forming his or her own views, ascertain those views and give them due weight, having regard to the age and maturity of the child.

(5) Proceedings under this section shall be heard otherwise than in public.

(6) At any time on or after the Court receives a *section 204* application and a relevant authority is not already a party to the proceedings, the Court may, at any stage of the proceedings, of its own motion or on the application of any party to the proceedings, direct that all necessary papers in the matter be sent to the relevant authority.

(7) Where, at any time on or after the Court receives a *section 204* application, a relevant authority requests to be made a party to the proceedings, the Court shall order that the relevant authority be added as a party, and, whether or not the relevant authority so requests, the relevant authority may argue before the Court any question in relation to the application which the Court considers necessary to have fully argued and take such other steps in relation thereto as the relevant authority thinks necessary or expedient.

(8) The Court may direct that notice of a *section 204* application shall be given to such other persons as the Court thinks fit and where notice is so given to any person the Court may, either of its own motion or on the application of that person or any party to the proceedings, order that that person shall be added as a party to those proceedings.

(9) In this section, "relevant authority" means—

(a) the Attorney General, or

(b) the AHRRA.

Effect of parental order - past domestic surrogacy

206. (1) Where the Court grants a parental order in respect of the relevant child—

(a) the child becomes the child of the intending parents (or, in the case of a single intending parent, that intending parent) named in the order,

(b) subject to *paragraph (e)*, the child is no longer the child of any person other than a person named as a parent in the order,

(c) the child will be considered, with regard to the rights and duties of parents and children in relation to each other, as the child of the intending parents (or, in the case of a single intending parent, that intending parent) named in the order,

(d) the surrogate mother of the child will lose all parental rights and is freed from all parental duties in respect of the child, and

(e) the order does not affect any order previously made under section 35 of the Status of Children Act 1987 in respect of an intending parent of the child.

(2) Where the Court grants a parental order in respect of the relevant child, it shall, within 14 days immediately following such grant, give, or cause to be given, a copy of the order to *an tArd-Chláraitheoir* and the AHRRA in order to allow—

(a) *an tArd-Chláraitheoir* to make, or cause to be made, an entry, in the register of parental orders for surrogacy established and maintained under section 13(1)(n)

of the Act of 2004, in accordance with section 30O(2) (inserted by *section 230(d)*) of that Act, and

(b) the AHRRA to make an entry in the National Surrogacy Register under *section 207(2)(b)*.

(3) Where the Court refuses to grant a parental order in respect of the relevant child, the Court shall, within 14 days immediately following such refusal, give, or cause to be given, a notice in writing of the particulars of such refusal to the AHRRA in order to allow the AHRRA to make an entry in the National Surrogacy Register under *section 207(2)(b)*.

National Surrogacy Register and relevant child (*Chapter 1*)

207. (1) Subject to *subsection (2)*, the AHRRA shall make an entry in the National Surrogacy Register, in respect of the relevant child, as soon as is practicable after the AHRRA receives the *section 204* application concerned.

(2) An entry under *subsection (1)* shall contain the following particulars, to the extent known:

(a) the information in respect of the relevant child, the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent) as given to the Court as part of the *section 204* application;

(b) where the *section 204* application has been determined, whether or not a parental order was granted and the date of the determination.

(3) Where the AHRRA becomes aware of updated information in relation to *subsection (2)*, or of an error in any information entered under that subsection, it shall, without delay, update or correct the information, as the case may be, and contact *an tArd-Chláraitheoir*, where necessary, to inform him or her of such updating or correction, as the case may be.

Interaction of National Surrogacy Register and register of births - past domestic surrogacy

208. (1) This section applies where any of the following events (in this section referred to as a "relevant event") occurs:

(a) the AHRRA receives the copy of a parental order in respect of the relevant child from the Court under *section 206(2)*;

(b) the AHRRA is notified under *section 206(3)* of a refusal of the Court to grant a parental order in respect of the relevant child.

(2) The AHRRA shall give notice in writing to *an tArd-Chláraitheoir* of the relevant event (which, in the case of a relevant event which falls within *subsection (1)(a)*, shall have a copy of the parental order attached to it) in order to enable *an tArd-Chláraitheoir* to note in the entry in the register of births in respect of the relevant child that the child was born as a result of AHR treatment provided pursuant

to a surrogacy agreement (P) and that additional information is available from the National Surrogacy Register in respect of the child.

(3) The note referred to in *subsection (2)* may only be given to the relevant child on or after he or she becomes an adult (AHR).

(4) Where the relevant child, on or after becoming an adult (AHR), applies for a copy of his or her birth certificate, *an tArd-Chláraitheoir* shall, when issuing a copy of the birth certificate, inform the adult (AHR) that further information relating to him or her is available on the National Surrogacy Register.

(5) In this section—

"birth certificate" means a document issued under section 13(4) of the Act of 2004 in respect of an entry in the register of births;

"register of births" means a register of births maintained by *an tArd-Chláraitheoir* under—

(a) section 13(1)(a) of the Act of 2004, or

(b) the repealed enactments (within the meaning of the Act of 2004).

Information in respect of intending parents or surrogate mother to be given to adult (AHR) - past domestic surrogacy

209. (1) An adult (AHR) born as a result of AHR treatment provided pursuant to a surrogacy agreement (P) may make an application (in this section referred to as a "*section 209* application") to the AHRRA to be given the name, date of birth and contact details of his or her intending parents (or, in the case of a single intending parent, that intending parent) or the surrogate mother, as the case may be, that are recorded on the National Surrogacy Register.

(2) Subject to *sections 211* and *212*, where the AHRRA receives a *section 209* application, it shall give the information sought by the *section 209* application to the adult (AHR).

Provisions supplementary to *section 209*

210. (1) Where information relating to a person is, in accordance with this Chapter, recorded on the National Surrogacy Register, that person (or, in the case of a person who has not attained the age of 16 years, his or her parent or guardian) may make an application (in this section referred to as a "*section 210* application") to the AHRRA to update the information concerned.

(2) Subject to *sections 211* and *212*, the AHRRA shall comply with a *section 210* application.

Applications to AHRRA not correctly completed - past domestic surrogacy

211. (1) Where the AHRRA is not satisfied that an application made to it under this Chapter has been correctly (including accurately) completed, it may, by notice in writing given

to the applicant, refuse to comply with the application or, as the case requires, refuse to take any other action under this Chapter on foot of the application and state in the notice the reasons for such refusal.

(2) The reference in *subsection (1)* to the AHRRA not being satisfied that an application made to it under this Chapter has been correctly completed includes a reference to the AHRRA not being satisfied as to the identity of the applicant or another person named in the application.

Additional information - past domestic surrogacy

212. Where an application is made under this Chapter to the AHRRA, the AHRRA may, by notice in writing given to the applicant, require the applicant to give in the specified form such additional information in relation to any matter to which the application relates as the AHRRA reasonably considers necessary to assist it to determine or, as the case requires, take any other action under this Chapter on foot of the application.

Provisions supplementary to *sections 211* and *212*

213. *Sections 211* and *212* shall, with all necessary modifications, apply to—

(a) a specified form, not being an application made under this Chapter, given to the AHRRA as they apply to an application made under this Chapter, and

(b) the person who gave such form to the AHRRA as they apply to the applicant in respect of an application made under this Chapter.

CHAPTER 2

Past international surrogacy

Definitions – *Chapter 2*

214. In this Chapter—

"Court" means the High Court;

"parental order" means an order granted by the Court under *section 217* for the transfer of the parentage of a child;

"past international surrogacy", in relation to a surrogacy jurisdiction, means a surrogacy agreement—

(a) entered into before the commencement of *section 216* by—

(i) a surrogate mother who has been habitually and lawfully resident in that jurisdiction, immediately before so entering into the agreement—

(I) for such period longer than one year as may be prescribed, or

(II) if no such period stands prescribed, for not less than one year,

and

(ii) either—

(I) both intending parents, not less than one of whom has been habitually and lawfully resident in the State, immediately before so entering into the agreement—

(A) for such period longer than one year as may be prescribed, or

(B) if no such period stands prescribed, for not less than one year,

or

(II) in the case of a single intending parent, that intending parent where he or she has been habitually and lawfully resident in the State, immediately before so entering into the agreement—

(A) for such period longer than one year as may be prescribed, or

(B) if no such period stands prescribed, for not less than one year,

and

(b) under which the embryo transfer was undertaken—

(i) before the commencement of *section 216*, and

(ii) in that jurisdiction;

"relevant child" shall be construed in accordance with *section 216(1)*;

"*section 216* application" shall be construed in accordance with *section 216(1)*;

"surrogacy agreement (P)" means a surrogacy agreement referred to in the definition of "past international surrogacy";

"surrogacy jurisdiction" means a jurisdiction outside the State where—

(a) the surrogacy the subject of a past international surrogacy has been lawfully undertaken, and

(b) the embryo transfer concerned has been undertaken and, subject to *section 217(2)(a)*, the child (if any) resulting from that transfer has been born.

Operation of Chapter and *section 151* before establishment day, etc.

215. (1) A reference in this Chapter (other than in *subsection (3)*) to the AHRRA shall, before the establishment day, be construed as a reference to the Minister.

(2) The Minister may, before the establishment day and for the purposes of specifying the form of documents required for the purposes of this Chapter, exercise the AHRRA's power under *section 151* as if a reference in that section to the AHRRA were a reference to the Minister.

(3) (a) A reference in this Chapter to the National Surrogacy Register shall, before the establishment day, be construed as a reference to a register (in this subsection referred to as the "interim register") established and maintained by the Minister for the purposes of making entries in the interim register, before the

establishment day, required by the provisions of this Chapter that would, if this section had commenced on the establishment day, be required to be made in the National Surrogacy Register.

(b) The Minister shall, as soon as is practicable on or after the establishment day, give the interim register to the AHRRA.

(c) The AHRRA shall, as soon as is practicable after it is given the interim register, transpose the entries in the interim register from that register to the National Surrogacy Register in such manner as the AHRRA thinks fit.

Application for parental order - past international surrogacy

216. (1) (a) Subject to *subsections (2)* to *(8)*, an application (in this Chapter referred to as a "*section 216* application") may be made to the Court for a parental order in respect of a child (in this Chapter referred to as the "relevant child") who was born as a result of AHR treatment provided pursuant to a surrogacy agreement (P).

(b) A *section 216* application shall be accompanied by the required particulars specified in Part 2C of the First Schedule to the Act of 2004.

(c) A *section 216* application shall be accompanied by the following particulars:

(i) in the case of the surrogate mother, to the extent known—

(I) her name,

(II) her date and place of birth,

(III) her nationality, and

(IV) her address and contact details;

(ii) in the case of each intending parent—

(I) his or her name,

(II) his or her date of birth,

(III) whether or not he or she provided a gamete used in the surrogacy agreement (P), and

(IV) his or her address and contact details.

(2) A *section 216* application may be made by—

(a) the intending parents or one of them (or, in the case of a single intending parent, that intending parent), or

(b) the relevant child.

(3) The following shall be parties to a *section 216* application:

(a) the intending parents (or, in the case of a single intending parent, that intending parent);

(b) the surrogate mother;

(c) the relevant child.

(4) A *section 216* application shall be accompanied by evidence that—

(a) the surrogacy agreement to which the application relates is a surrogacy agreement (P),

(b) the embryo from which the relevant child was born—

(i) was created using a gamete from not less than one of the intending parents of that child (or, in the case of a single intending parent of that child, was created using a gamete from that intending parent),

(ii) was not created using an egg from the surrogate mother, and

(iii) where the surrogate mother was party to a subsisting marriage at the time the embryo transfer was undertaken, was not created using the sperm of the husband of the marriage,

and

(c) subject to *subsection (9)*, the relevant child resides with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) named on the application.

(5) Subject to *subsection (6)*, a *section 216* application shall be made not later than—

(a) the 3rd anniversary of the commencement of this section, or

(b) 6 months after the birth of the relevant child,

whichever is the later.

(6) The Court may extend the time referred to in *subsection (5)* if it is satisfied that—

(a) there are exceptional circumstances justifying the extension, and

(b) it is in the best interests of the relevant child to do so.

(7) Subject to *subsection (9)*, a *section 216* application in respect of the relevant child shall only be made if any living sibling or half-sibling who was born as a result of the same pregnancy the subject of the surrogacy agreement (P) concerned is also the subject of the application.

(8) Without prejudice to the generality of *section 217(6)* and *(7)*, the AHRRA and the Attorney General shall be served with a copy of a *section 216* application.

(9) *Subsections (4)(c)* and *(7)* shall not apply where the relevant child has attained the age of 18 years.

Grant of parental order and relevant child (*Chapter 2*)

217. (1) Subject to *subsections (2)* to *(4)*, the Court may grant an order pursuant to a *section 216* application if it is satisfied that—

(a) subject to *section 216(9)*, the evidence referred to in *subsection (4)* of *section 216* proves the matters referred to in *paragraphs (a)*, *(b)* and *(c)* of that subsection,

(b) the intending parents (or, in the case of a single intending parent, that intending parent) named in the application consent to the granting of the order,

(c) subject to *paragraph (g)*, the surrogate mother consents to the granting of the order and the recording of information required under *section 219*, including confirmation that she understands that the relevant child may, in accordance with the provisions of this Chapter—

(i) access the information specified in *section 219(2)*, and

(ii) seek to contact any or all parties to the surrogacy agreement (P),

(d) at the time of the hearing of the application, where the relevant child has not attained the age of 18 years, the child continues to reside with the intending parents or one of them (or, in the case of a single intending parent, that intending parent) named on the application,

(e) subject to *paragraph (g)*, where the relevant child has attained the age of 18 years, he or she consents to the granting of the order,

(f) where the relevant child has not attained the age of 18 years, the granting of the order is in the best interests of the child, and

(g) a consent referred to in *paragraph (c)* or *(e)* was given by a person—

(i) voluntarily,

(ii) when he or she had the capacity to do so, and

(iii) only after he or she had received independent legal advice from a legal practitioner about the legal implications of giving such consent.

(2) (a) The Court may waive a requirement under *subsection (1)(a)* that the relevant child (as indicated in *paragraph (b)* of the definition of "surrogacy jurisdiction") has been born in the surrogacy jurisdiction concerned if it is satisfied that there are exceptional circumstances justifying such waiver.

(b) The Court may waive a requirement under *subsection (1)* for consent from an intending parent, in the case of two intending parents, if he or she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find him or her, or

(iii) lacks the capacity to make a decision in that regard.

(c) The Court may waive a requirement under *subsection (1)* for consent from the surrogate mother if she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find her, or

(iii) lacks the capacity to make a decision in that regard.

(d) The Court may waive a requirement under *subsection (1)* for consent from the relevant child if he or she—

(i) is deceased,

(ii) cannot be located after reasonable efforts have been made to find him or her, or

(iii) lacks the capacity to make a decision in that regard.

(3) In determining, under *subsection (1)(f)*, what is in the best interests of the relevant child, the Court shall have regard to all the circumstances that it considers relevant to the child, including—

(a) the child's age and maturity,

(b) the physical, psychological and emotional needs of the child,

(c) the likely effect of the granting of the parental order on the child,

(d) the child's social, intellectual and educational needs,

(e) the child's upbringing and care,

(f) the child's relationship with his or her intending parents (or, in the case of a single intending parent, that intending parent), and

(g) any other particular circumstances pertaining to the child.

(4) The Court shall, in relation to its consideration of a *section 216* application and in so far as is practicable, in respect of any relevant child who is capable of forming his or her own views, ascertain those views and give them due weight having regard to the age and maturity of the child.

(5) Proceedings under this section shall be heard otherwise than in public.

(6) At any time on or after the Court receives a *section 216* application and a relevant authority is not already a party to the proceedings, the Court may, at any stage of the proceedings, of its own motion or on the application of any party to the proceedings, direct that all necessary papers in the matter be sent to the relevant authority.

(7) Where, at any time on or after the Court receives a *section 216* application, a relevant authority requests to be made a party to the proceedings, the Court shall order that the relevant authority be added as a party, and, whether or not the relevant authority so requests, the relevant authority may argue before the Court any question in relation to the application which the Court considers necessary to have fully argued and take such other steps in relation thereto as the relevant authority thinks necessary or expedient.

(8) The Court may direct that notice of a *section 216* application shall be given to such other persons as the Court thinks fit and where notice is so given to any person the Court may, either of its own motion or on the application of that person or any party

to the proceedings, order that that person shall be added as a party to those proceedings.

(9) In this section, "relevant authority" means—

(a) the Attorney General, or

(b) the AHRRA.

Effect of parental order - past international surrogacy

218. (1) Where the Court grants a parental order in respect of the relevant child—

(a) the child becomes the child of the intending parents (or, in the case of a single intending parent, that intending parent) named in the order,

(b) subject to *paragraph (e)*, the child is no longer the child of any person other than a person named as a parent in the order,

(c) the child will be considered, with regard to the rights and duties of parents and children in relation to each other, as the child of the intending parents (or, in the case of a single intending parent, that intending parent) named in the order,

(d) the surrogate mother of the child will lose all parental rights and is freed from all parental duties in respect of the child, and

(e) the order does not affect any order previously made under section 35 of the Status of Children Act 1987 in respect of an intending parent of the child.

(2) Where the Court grants a parental order in respect of the relevant child, it shall, within 14 days immediately following such grant, give, or cause to be given, a copy of the order to the AHRRA in order to allow the AHRRA to make an entry in the National Surrogacy Register under *section 219(2)(b)*.

(3) Where the Court grants a parental order in respect of the relevant child—

(a) born in the State, and

(b) the subject of a waiver referred to in *section 217(2)(a)*,

it shall, within 14 days immediately following such grant, give, or cause to be given, a copy of the order to *an tArd-Chláraitheoir* in order to allow *an tArd-Chláraitheoir* to make, or cause to be made, an entry, in the register of parental orders for surrogacy established and maintained under section 13(1)(n) of the Act of 2004, in accordance with section 30O(2) (inserted by *section 230(d)*) of that Act.

(4) Where the Court refuses to grant a parental order in respect of the relevant child, the Court shall, within 14 days immediately following such refusal, give, or cause to be given, a notice in writing of the particulars of such refusal to the AHRRA in order to allow the AHRRA to make an entry in the National Surrogacy Register under *section 219(2)(b)*.

National Surrogacy Register and relevant child (*Chapter 2*)

219. (1) Subject to *subsection (2)*, the AHRRA shall make an entry in the National Surrogacy Register in respect of the relevant child as soon as is practicable after the AHRRA receives the *section 216* application concerned.

(2) An entry under *subsection (1)* shall contain the following particulars, to the extent known:

(a) the information in respect of the relevant child, the surrogate mother and the intending parents (or, in the case of a single intending parent, that intending parent), as given to the Court as part of the *section 216* application;

(b) where the *section 216* application has been determined, whether or not a parental order was granted and the date of the determination.

(3) Where the AHRRA becomes aware of updated information in relation to *subsection (2)*, or of an error in information entered under that subsection, it shall, without delay—

(a) update or correct the information, as the case may be, and

(b) if the child referred to in that subsection was born in the State, contact *an tArd-Chláraitheoir*, where necessary, to inform him or her of such updating or correction, as the case may be.

Interaction of National Surrogacy Register and register of births - past international surrogacy

220. (1) This section applies where the relevant child was born in the State and any of the following events (in this section referred to as a "relevant event") occurs:

(a) the AHRRA receives the copy of a parental order in respect of the relevant child from the Court under *section 218(2)*;

(b) the AHRRA is notified under *section 218(4)* of a refusal of the Court to grant a parental order in respect of the relevant child.

(2) The AHRRA shall give notice in writing to *an tArd-Chláraitheoir* of the relevant event (which, in the case of a relevant event which falls within *subsection (1)(a)*, shall have a copy of the parental order attached to it) in order to enable *an tArd-Chláraitheoir* to note in the entry in the register of births in respect of the relevant child that the child was born as a result of AHR treatment provided pursuant to a surrogacy agreement (P) and that additional information is available from the National Surrogacy Register in respect of the child.

(3) The note referred to in *subsection (2)* may only be given to the relevant child on or after he or she becomes an adult (AHR).

(4) Where the relevant child, on or after becoming an adult (AHR), applies for a copy of his or her birth certificate, *an tArd-Chláraitheoir* shall, when issuing a copy of the birth certificate, inform the adult (AHR) that further information relating to him or her is available on the National Surrogacy Register.

(5) In this section—

"birth certificate" means a document issued under section 13(4) of the Act of 2004 in respect of an entry in the register of births;

"register of births" means a register of births maintained by *an tArd-Chláraitheoir* under—

(a) section 13(1)(a) of the Act of 2004, or

(b) the repealed enactments (within the meaning of the Act of 2004).

Information in respect of intending parents or surrogate mother to be given to adult (AHR) - past international surrogacy

221. (1) An adult (AHR) born as a result of AHR treatment provided pursuant to a surrogacy agreement (P) may make an application (in this section referred to as a "*section 221* application") to the AHRRA to be given the name, date of birth and contact details of his or her intending parents (or, in the case of a single intending parent, that intending parent) or the surrogate mother, as the case may be, that are recorded on the National Surrogacy Register.

(2) Subject to *sections 223* and *224*, where the AHRRA receives a *section 221* application, it shall give the information sought by the *section 221* application to the adult (AHR).

Provisions supplementary to *section 221*

222. (1) Where information relating to a person is, in accordance with this Chapter, recorded on the National Surrogacy Register, that person (or, in the case of a person who has not attained the age of 16 years, his or her parent or guardian) may make an application (in this section referred to as a "*section 222* application") to the AHRRA to update the information concerned.

(2) Subject to *sections 223* and *224*, the AHRRA shall comply with a *section 222* application.

Applications to AHRRA not correctly completed - past international surrogacy

223. (1) Where the AHRRA is not satisfied that an application made to it under this Chapter has been correctly (including accurately) completed, it may, by notice in writing given to the applicant, refuse to comply with the application or, as the case requires, refuse to take any other action under this Chapter on foot of the application and state in the notice the reasons for such refusal.

(2) The reference in *subsection (1)* to the AHRRA not being satisfied that an application made to it under this Chapter has been correctly completed includes a reference to the AHRRA not being satisfied as to the identity of the applicant or another person named in the application.

Additional information - past international surrogacy

224. Where an application is made under this Chapter to the AHRRA, the AHRRA may, by notice in writing given to the applicant, require the applicant to give in the specified form such additional information in relation to any matter to which the application relates as the AHRRA reasonably considers necessary to assist it to determine or, as the case requires, take any other action under this Chapter on foot of the application.

Provisions supplementary to *sections 223* and *224*

225. *Sections 223* and *224* shall, with all necessary modification, apply to—

(a) a specified form, not being an application made under this Chapter, given to the AHRRA as they apply to an application made under this Chapter, and

(b) the person who gave such form to the AHRRA as they apply to the applicant in respect of an application made under this Chapter.

PART 13

Consequential and other amendments

Amendment of Irish Nationality and Citizenship Act 1956

226. The Irish Nationality and Citizenship Act 1956 is amended by the insertion of the following section after section 11:

"Citizenship of children born as result of donor-assisted human reproduction procedures or surrogacy

11A. (1) Subject to subsection (2), for the purposes of this Act, 'parent' shall include a person who is, under section 5 of the Act of 2015, a parent of a child born in the State.

(2) Where a person who is an Irish citizen is declared under section 21 or 22 of the Act of 2015 to be a parent of a child, the child, if not already an Irish citizen, shall be an Irish citizen from the date on which the declaration is made.

(3) Where—

(a) a parental order is granted in respect of a child, and

(b) an intending parent named in the parental order as a parent of the child is an Irish citizen,

the child, if not already an Irish citizen, shall be an Irish citizen from the date on which the parental order is granted.

(4) This section shall apply to a child born before or after the commencement of this section.

(5) In this section—

'Act of 2015' means the Children and Family Relationships Act 2015;

'*Act of 2024*' means the *Health (Assisted Human Reproduction) Act 2024*;

'intending parent' has the meaning assigned to it by the *Act of 2024*;

'parental order' means an order granted under *section 66(1)(a)*, *103(1)(a)*, *205* or *217* of the *Act of 2024* for the transfer of the parentage of a child.".

Amendment of Guardianship of Infants Act 1964

227. The Guardianship of Infants Act 1964 is amended—

(a) in section 2(1)—

(i) in the definition of "father", by the insertion of "and a male intending parent who has been named in a parental order as the parent of a child" after "adoption order",

(ii) in the definition of "mother", by the insertion of "and a female intending parent who has been named in a parental order as the parent of a child" after "adoption order", and

(iii) by the insertion of the following definitions:

" '*Act of 2024*' means the *Health (Assisted Human Reproduction) Act 2024*;

'intending parent' has the meaning assigned to it by the *Act of 2024*;

'parental order' means an order granted under *section 66(1)(a)*, *103(1)(a)*, *205* or *217* of the *Act of 2024* for the transfer of the parentage of a child;

'surrogacy agreement' has the meaning assigned to it by the *Act of 2024*;

'surrogate mother' has the meaning assigned to it by the *Act of 2024*;",

(b) in section 6—

(i) in subsection (1)—

(I) in paragraph (a), by the deletion of "or",

(II) in paragraph (b), by the substitution of "couple, or" for "couple.", and

(III) by the insertion of the following paragraph after paragraph (b):

"(c) where a married couple of the same sex have both been named in a parental order as the parent of a child, each of the married couple.",

(ii) by the insertion of the following subsection after subsection (1A):

"(1B) Where civil partners or cohabiting couples have both been named in a parental order as the parents of a child, the civil partners or cohabitants, as the case may be, shall be guardians of the child jointly.",

(iii) by the insertion of the following subsections after subsection (3B):

"(3C) On the death of a spouse who has been named in a parental order as the parent of a child and whose spouse of the same sex was also so named in the order, the other spouse, if surviving, shall be guardian of the child, either alone or jointly with any guardian appointed by the deceased spouse or by the court.

(3D) (a) On the death of a civil partner who has been named in a parental order as the parent of a child and whose civil partner was also so named in the order, the other civil partner, if surviving, shall be guardian of the child, either alone or jointly with any guardian appointed by the deceased civil partner or by the court.

(b) On the death of a cohabitant who has been named in a parental order as the parent of a child and whose cohabitant was also so named in the order, the other cohabitant, if surviving, shall be guardian of the child, either alone or jointly with any guardian appointed by the deceased cohabitant or by the court.",

and

(iv) in subsection (4), by the substitution of "subsections (1A) and (1B)" for "subsection (1A)",

and

(c) by the insertion of the following sections after section 6B:

"Guardianship of child born as result of AHR treatment provided pursuant to surrogacy agreement

6BA. (1) Where—

(a) a child is born as the result of AHR treatment provided pursuant to (or for the purposes of) a surrogacy agreement,

(b) an intending parent and the surrogate mother have each declared that he or she, in accordance with the provisions of the *Act of 2024*—

(i) is, as the case requires, an intending parent or the surrogate mother of the child, and

(ii) agrees to the appointment of the intending parent as a guardian of the child,

and

(c) the intending parent and surrogate mother have made a statutory declaration to the effect referred to in paragraph (b) in a form prescribed by the Minister,

that intending parent, in addition to that surrogate mother, shall be a guardian of that child.

(2) Where there are two intending parents of a child referred to in subsection (1), either or both parents may take the action referred to in that subsection to become a guardian of the child.

(3) Subject to subsection (4), an intending parent who is a guardian of a child by virtue of the operation of this section shall cease to be such guardian upon the refusal of the Circuit Court to grant a parental order stating that the child becomes the child of that parent.

(4) Subsection (3) shall not come into effect until—

(a) the ordinary time within which an appeal against the refusal referred to in that subsection has elapsed without any such appeal having been made, or

(b) if such an appeal is made—

(i) the abandonment or withdrawal of the appeal, or

(ii) the determination of the appeal by way of confirmation of such refusal,

whichever first occurs.

Guardianship of child born as result of international surrogacy agreement

6BB. (1) Where—

(a) a child is born as the result of a surrogacy agreement which has been approved under *section 90* of the *Act of 2024*, and

(b) an intending parent and the surrogate mother have each declared that he or she, in accordance with the provisions of the *Act of 2024*—

(i) is, as the case requires, an intending parent or the surrogate mother of the child, and

(ii) agrees to the appointment of the intending parent as a guardian of the child,

and

(c) the intending parent and surrogate mother have made a statutory declaration to the effect referred to in paragraph (b) in a form prescribed by the Minister,

that intending parent, in addition to that surrogate mother, shall be a guardian of that child.

(2) Where there are two intending parents of a child referred to in subsection (1), either or both parents may take the action referred to in that subsection to become a guardian of the child.

(3) Subject to subsection (4), an intending parent who is a guardian of a child by virtue of the operation of this section shall cease to be such guardian upon the refusal of the Circuit Court to grant a parental order stating that the child becomes the child of that parent.

(4) Subsection (3) shall not come into effect until—

(a) the ordinary time within which an appeal against the refusal referred to in that subsection has elapsed without any such appeal having been made, or

(b) if such an appeal is made—

(i) the abandonment or withdrawal of the appeal, or

(ii) the determination of the appeal by way of confirmation of such refusal,

whichever first occurs.".

Amendment of section 46 of Status of Children Act 1987

228. Section 46 of the Status of Children Act 1987 is amended—

(a) in subsection (1), by the substitution of "Subject to subsection (1A), where" for "Where", and

(b) by the insertion of the following subsection after subsection (1):

"(1A) For the purposes of *Part 7* or *8* of the *Health (Assisted Human Reproduction) Act 2024*, the reference in subsection (1) to 'where a woman gives birth to a child' shall be construed as a reference to 'where a woman gives birth to a child (other than a child born as a result of AHR treatment within the meaning of that Act provided pursuant to, or for the purposes of, a permitted surrogacy or permitted international surrogacy within the meaning of that Act).'.".

Amendment of section 15 of Passports Act 2008

229. Section 15(2) of the Passports Act 2008 is amended by the substitution of the following paragraph for paragraph (a):

"(a) there is reasonable cause to believe that the person is or may be—

(i) an Irish citizen, or

(ii) a child to whom section 11A(3) (inserted by *section 226* of the *Health (Assisted Human Reproduction) Act 2024*) of the Irish Nationality and Citizenship Act 1956 will apply,".

Amendment of Act of 2004

230. The Act of 2004 is amended—

(a) in section 2(1)—

(i) by the substitution of the following definition for the definition of "parent":

" 'parent'—

(a) in relation to a donor-conceived child, means the parent or parents of that child under section 5 of the Children and Family Relationships Act 2015, and

(b) in relation to a child born as a result of AHR treatment provided pursuant to (or for the purposes of) a surrogacy agreement, means the parent or parents of that child under *section 67*, *104*, *206* or *218* of the *Act of 2024*;",

(ii) in the definition of "the required particulars", by the insertion of the following paragraph after paragraph (f):

"(g) in relation to a parental order, the particulars specified in Part 2C of the First Schedule;",

and

(iii) by the insertion of the following definitions:

" '*Act of 2024*' means the *Health (Assisted Human Reproduction) Act 2024*;

'parental order' means an order granted under *section 66(1)(a)*, *103(1)(a)*, *205* or *217* of the *Act of 2024* for the transfer of the parentage of a child;

'surrogacy agreement' has the meaning assigned to it by the *Act of 2024*;",

(b) in section 8(1), by the insertion of the following paragraph after paragraph (eeeeee):

"(eeeeeee) to establish and maintain a register and index for the purposes of the registration of parental orders,",

(c) in section 13(1), by the insertion of the following paragraph after paragraph (m):

"(n) a register of all parental orders where an order has been made by the court under *section 66(1)(a)*, *103(1)(a)*, *205* or *217(1)* of the *Act of 2024* (which shall be known, and is referred to in this Act, as the register of parental orders for surrogacy).",

(d) by the insertion of the following Part after Part 3B:

"PART 3C

Registration of parental orders for surrogacy

Definition (Part 3C)

30M. In this Part, 'register' means the register of parental orders for surrogacy.

Application of Part

30N. (1) Subject to subsection (2), this Part applies to parental orders.

(2) This Part shall not apply where the birth of a child named in a parental order has not already been registered in the register of births.

Entries in register on foot of parental order

30O. (1) One or both of the parents named in a parental order shall, as soon as is practicable after the order has been made, give to *an tArd-Chláraitheoir* a copy of the order, together with the required particulars specified in Part 2C of the First Schedule, and *an tArd-Chláraitheoir* shall make an entry in the register, or cause an entry to be so made.

(2) Where *an tArd-Chláraitheoir* receives a copy of a parental order under *section 67*, *104*, *206* or *218* of the *Act of 2024* and, after a period of 3 months from the date of the parental order, an entry has not been made in the register in relation to that copy, *an tArd-Chláraitheoir* shall enter or cause to be entered the required particulars in the register.

(3) Where there is an error in a parental order furnished under subsection (1), the court concerned shall give to *an tArd-Chláraitheoir*, within five days, a further parental order correcting the error in the register or cause it to be corrected.

(4) If a parental order is set aside, the court concerned shall inform *an tArd-Chláraitheoir*, within five days, and *an tArd-Chláraitheoir* shall cancel the entry relating to the order or cause it to be cancelled.

(5) Evidence of an entry in the register and of the facts stated therein may be given by the production of a document purporting to be a legible copy of the entry and to be certified to be a true copy by *an tArd-Chláraitheoir* or a person authorised in that behalf by *an tArd-Chláraitheoir*.

(6) In this section, 'court' shall be construed in accordance with *section 2* of the *Act of 2024*.

Other entries in register

30P. Where *an tArd-Chláraitheoir* receives notice in writing of information from the AHRRA under *section 69(2)*, *106(2)*, *208(2)* or *220(2)* of the *Act of 2024*, he or she shall enter or cause to be entered the required particulars in the register.

Who may obtain copies of entries in register

30Q. (1) Subject to subsection (2), the parents, or the guardian, or the child having reached the age of 16 years, may make an application to *an tArd-Chláraitheoir* and on payment to him or her of the prescribed fee, shall be given by him or her—

(a) a copy certified by him or her to be a true copy, or

(b) a copy,

of an entry in the register so long as the applicant is named as a parent or a child in the relevant parental order, or is a guardian of the child named in the parental order.

(2) A copy of an entry, referred to in subsection (1), or an extract thereof, shall omit any reference to or particulars of a personal public service number and 'true copy' in that subsection shall be construed accordingly.

(3) Where a person whose birth was registered in accordance with this section and who has attained the age of 16 years applies for a birth certificate, the registrar shall contact that person to inform him or her that further information relating to him or her is available from the National Surrogacy Register.

Separate index of connections between register and register of births

30R. (1) *An tArd-Chláraitheoir* shall maintain an index to make traceable the connection between each entry in the register and the corresponding entry in the register of births.

(2) Notwithstanding section 30Q, the index maintained under subsection (1) shall not be open to public inspection, and no information from that index shall be given to any person except by order of a court.

Certified copy of entry in register as evidence of facts stated

30S. A certified copy of an entry in the register, if purporting to be issued under the seal of *Oifig an Ard-Chláraitheora*, shall be received, without further proof, as evidence of the facts stated in the certified copy, and any requirement of law for the production of a certificate of birth shall be satisfied by the production of the certified copy.

Privacy of surrogacy records

30T. (1) No person other than *an tArd-Chláraitheoir* or a person authorised in that behalf by *an tArd-Chláraitheoir* shall be entitled to research the register or an index relating to the register which makes traceable an entry in the register of births and no information from the register or such an index shall be given to any person except by order of a court.

(2) A court shall not make an order under subsection (1) unless it is satisfied that it is in the best interests of any child concerned to do so.

(3) A court shall not make an order referred to in section 30R(2) unless the court is satisfied that it is in the best interests of any child concerned to make the order.",

(e) in section 61(3), by the substitution of ", to the register under Part 3B or to the register for parental orders for surrogacy or an index to any of those registers" for "or to the register under Part 3B or to an index to any of those registers",

(f) in section 63(1), by the substitution of ", (k) or (n)" for "or (k)", and

(g) in the First Schedule, by the insertion of the following Part after Part 2B:

"PART 2C

PARTICULARS TO BE ENTERED IN REGISTER OF PARENTAL ORDERS FOR SURROGACY

Personal public service number of child.

Date and country of birth of child.

Sex of child.

Forename, surname, birth surname, address and occupation of mother.

Former surname of mother.

Date of birth of mother.

Marital status of mother.

Personal public service number of mother.

Forename, surname, birth surname, address and occupation of father.

Former surname of father.

Date of birth of father.

Marital status of father.

Personal public service number of father.

Forename(s), surname(s), birth surname(s), address and occupation(s) of parent(s).

Former surname(s) of parent(s).

Date(s) of birth of parent(s).

Marital status of parent(s).

Personal public service number(s) of parent(s).

Date of parental order made by a court under *section 66(1)(a)*, *103(1)(a)*, *205(1)* or *217(1)* of the *Act of 2024*.

Date of registration.

Registered by.".

Amendment of section 39 of Civil Liability and Courts Act 2004

231. Section 39 of the Civil Liability and Courts Act 2004 is amended, in the definition of "relevant enactment"—

(a) in paragraph (l), by the substitution of "2010;" for "2010.", and

(b) by the insertion of the following paragraph after paragraph (l):

"(m) *section 66(1)(a)*, *103(1)(a)*, *205* or *217* of the *Health (Assisted Human Reproduction) Act 2024*.".

Amendment of Act of 2015

232. The Act of 2015 is amended—

(a) in section 19(3), by the deletion of paragraphs (b) and (c) and the substitution of the following:

"(b) medical expenses,

(c) any legal or counselling costs, and

(d) any net loss of income,",

(b) in section 20—

(i) in subsection (1)—

(I) by the substitution of the following paragraph for paragraph (b):

"(b) the child was born as a result of a DAHR procedure that was performed before the date on which this section came into operation that—

(i) was performed in the State, or

(ii) both—

(I) was performed outside the State, and

(II) where it was performed in a DAHR facility outside the State, was performed by a person authorised to do so under the law of the place where the procedure was performed,",

(II) by the substitution of the following paragraph for paragraph (d):

"(d) subject to paragraph (g), at the time referred to in paragraph (c), the donor who provided a gamete that was used in the DAHR procedure—

(i) was unknown to the mother of the child and the person referred to in paragraph (c), and

(ii) was not an intending parent of the child,",

(III) in paragraph (e), by the substitution of "paragraph (c)," for "paragraph (c), and",

(IV) in paragraph (f), by the substitution of "parent," for "parent.", and

(V) by the insertion of the following paragraphs after paragraph (f):

"(g) subject to paragraphs (h) and (i), where the donor who provided a gamete that was used in the DAHR procedure was known to the mother of the child and the person referred to in paragraph (c), the donor consents to the making of the declaration concerned under section 21 or 22 and, by virtue of giving such consent, confirms that he or she understands that, under the law of the State, he or she—

(i) is not a parent of the child, and

(ii) has no parental rights or duties in respect of the child,

(h) a consent referred to in paragraph (g) given by the donor is given—

(i) voluntarily, and

(ii) subject to provisions of the Assisted Decision-Making (Capacity) Act 2015, when he or she had the capacity (within the meaning of that Act) to do so,

and

(i) the District Court or Circuit Court, as appropriate, may waive the requirement under paragraph (g) of consent from the donor referred to in that paragraph if he or she—

(i) is deceased, or

(ii) cannot be located after reasonable efforts have been made to find him or her.",

and

(ii) in subsection (2), by the substitution of the following definitions for the definition of "DAHR procedure":

" 'DAHR procedure' includes a DAHR procedure performed—

(a) other than in a DAHR facility,

(b) outside the State, or

(c) other than in a DAHR facility and outside the State;

'donor' means a person who provided a gamete for a DAHR procedure, other than the mother or intending parent of the child born as a result of such procedure;",

(c) in section 21, by the insertion of the following subsection after subsection (4):

"(4A) Where section 20(1)(g) applies, an application under this section shall include an affidavit sworn by the donor stating that he or she—

(a) consents to the making of a declaration under this section, and

(b) understands that, under the law of the State, he or she is not a parent of the child and has no parental rights or duties in respect of the child.",

(d) in section 22, by the insertion of the following subsection after subsection (5):

"(5A) Where section 20(1)(g) applies, an application under this section shall include an affidavit sworn by the donor stating that he or she—

(a) consents to the making of a declaration under this section, and

(b) understands that, under the law of the State, he or she is not a parent of the child and has no parental rights or duties in respect of the child.",

(e) in section 26—

(i) in subsection (5)(a), by the substitution of "a DAHR facility" for "the DAHR facility concerned", and

(ii) in subsection (6)(b), by the substitution of "a DAHR facility" for "the DAHR facility",

(f) in section 34(1)—

(i) by the substitution of "Subject to section 42A, a donor-conceived child who has attained the age of 16 years" for "A donor-conceived child who has attained the age of 18 years", and

(ii) by the substitution of "16 years, may" for "18 years, may",

(g) in section 35—

(i) in subsection (1), by the substitution of "Subject to section 42A, a donor-conceived child who has attained the age of 16 years" for "A donor-conceived child who has attained the age of 18 years",

(ii) by the insertion of the following subsection after subsection (1):

"(1A) The Minister shall, as soon as is practicable after receiving a request under subsection (1), comply with the request.",

and

(iii) by the deletion of subsections (2) to (6),

(h) in section 36—

(i) in subsection (1), by the substitution of "Subject to section 42A, a donor-conceived child who has attained the age of 16 years" for "A donor-conceived child who has attained the age of 18 years", and

(ii) in subsection (2)—

(I) by the substitution of "Subject to section 42A, a donor" for "A donor", and

(II) by the substitution of "16 years" for "18 years",

(i) in section 37—

(i) in subsection (1), by the substitution of "Subject to section 42A, a donor-conceived child who has attained the age of 16 years" for "A donor-conceived child who has attained the age of 18 years", and

(ii) in subsection (2), by the substitution of "Subject to section 42A, a donor-conceived child who has attained the age of 16 years" for "A donor-conceived child who has attained the age of 18 years",

and

(j) in section 38—

(i) in subsection (1), by the substitution of "(or, subject to section 42A, in the case of a person who has not attained the age of 16 years, his or her parent or guardian)" for "(or, in the case of a person who has not attained the age of 18 years, his or her parent or guardian)", and

(ii) by the deletion of subsection (2).

Delegation by Minister to AHRRA

233. The Act of 2015 is amended by the insertion of the following section after section 41:

"41A. (1) The Minister may delegate to the AHRRA any of his or her functions (including maintaining the National Donor-Conceived Person Register) under Part 2 or this Part (except the Minister's power to make regulations under section 41) which he or she considers can effectively be performed by the AHRRA and the Minister shall be responsible for monitoring, approving or reviewing the performance of such delegated functions by the AHRRA.

(2) Where a function of the Minister is delegated to the AHRRA under subsection (1), the delegation shall remain in force until the Minister revokes it.

(3) In this section, 'AHRRA' has the meaning it has in *section 122* of the *Health (Assisted Human Reproduction) Act 2024*.".

Savings - sections 34 to 38

234. The Act of 2015 is amended, in Part 3, by the insertion of the following section after section 42:

"42A. (1) (a) Section 34 as amended by *section 232(f)* of the *Act of 2024* shall not apply in the case of information from the Register which was

recorded in the Register before the commencement of such *section 232(f)*.

(b) Section 34 as in force immediately before the commencement referred to in paragraph (a) shall, on and after that commencement, continue to apply to information referred to in that paragraph.

(2) (a) Section 35 as amended by *section 232(g)* of the *Act of 2024* shall not apply in the case of information which was recorded in the Register before the commencement of such *section 232(g)*.

(b) Section 35 as in force immediately before the commencement referred to in paragraph (a) shall, on and after that commencement, continue to apply to information referred to in that paragraph.

(3) In this section, '*Act of 2024*' means the *Health (Assisted Human Reproduction) Act 2024*.".

SCHEDULE 1

Section 2

FIT AND PROPER PERSON

1. In this Schedule—

"person concerned", in relation to a relevant person which is a body corporate, means—

(a) a person who exercises control (within the meaning of section 11 or 432 of the Taxes Consolidation Act 1997) in relation to the body,

(b) a member (including the chairperson) of the body, or the board or board of directors of the body, or any other person acting in such capacity,

(c) the managing director or chief executive officer of the body, or any other person acting in such capacity, or

(d) a person to whom *paragraph 2(f)* relates or, in the case of a relevant person who falls within *clause (a)* of the definition of "relevant person", would relate if the AHRRA grants the licence concerned;

"relevant person" means—

(a) in the case of a licence application, the applicant, or

(b) the holder of a licence.

2. Subject to *section 162*, the AHRRA shall, in determining whether a relevant person is a fit and proper person to be granted a licence or to continue to be the holder of a licence, as the case may be, have regard to the following:

(a) letters of reference;

(b) whether the relevant person, or any other person concerned, stands convicted of—

(i) an indictable offence under this Act or an offence in another jurisdiction equivalent to such an indictable offence,

(ii) an indictable offence under an enactment prescribed for the purposes of this subparagraph, or

(iii) an offence involving fraud or dishonesty;

(c) if the relevant person is a body corporate, whether any of its directors has a declaration under section 819 of the Act of 2014 made against him or her or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or is subject to or deemed to be subject to—

(i) a disqualification order, within the meaning of Chapter 4 of Part 14 of the Act of 2014, whether by virtue of that Chapter or any other provision of that Act, or

(ii) a disqualification outside the State to like effect which corresponds to a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014;

(d) if the relevant person is an individual, whether he or she is adjudicated bankrupt or is subject to proceedings for a declaration of bankruptcy or becomes an arranging debtor;

(e) if the relevant person is a body corporate, whether it—

(i) has commenced a voluntary winding-up or is subject to a winding-up order or is subject to proceedings for such an order,

(ii) is subject to the appointment of a receiver or examiner, or

(iii) has proposed to compromise an arrangement that is sanctioned under section 453(2) of the Act of 2014;

(f) if the relevant person is a body corporate incorporated under the law of another jurisdiction—

(i) whether an event which corresponds to an event referred to in *clause (c)* has occurred in relation to any of its directors, or

(ii) whether an event which corresponds to an event referred to in *clause (e)* has occurred in relation to the body corporate;

(g) whether the relevant person, or a person acting on behalf of the relevant person in the relevant person's capacity as such, has (or has access to), or continues to have (or have access to), as the case may be, the requisite technical knowledge or qualifications, or both, to undertake the proposed relevant activity, or continue to undertake the relevant activity, as the case may be;

(h) whether the relevant person is likely to be in a position to meet, or continue to meet, as the case may be, any financial commitments or obligations that the AHRRA reasonably considers will be entered into or incurred by the relevant person—

(i) in undertaking the proposed relevant activity, or in continuing to undertake the relevant activity, as the case may be,

(ii) in ceasing to undertake the proposed relevant activity or the relevant activity, as the case may be, or

(iii) the previous performance of the relevant person when granted a licence.

SCHEDULE 2

Section 10

PROHIBITED ESC RESEARCH

1. ESC research involving the creation of an embryo specifically for use in research and whether or not the embryo is created by the fertilisation of a human egg by a human sperm or by other means.

2. (a) ESC research involving—

(i) the creation of a human embryo clone,

(ii) placing a human embryo clone into the body of a person,

(iii) placing a human embryo clone into the body of an animal, or

(iv) using a human embryo clone for the purposes of research.

(b) In this paragraph, "human embryo clone" means a human embryo that is a genetic copy of another living or deceased human, but does not include a human embryo created by fertilisation of a human egg by a human sperm.

3. (a) ESC research undertaking mitochondrial donation or mitochondrial replacement with human gametes or embryos.

(b) In this paragraph—

"enucleated egg or embryo" means an egg or embryo from which the nuclear DNA has been removed;

"mitochondrial donation" and "mitochondria replacement" mean the removal of any nuclear DNA from an egg or embryo that has abnormal mitochondria and the insertion of this nuclear DNA into another enucleated egg or embryo that has healthy mitochondria.

4. (a) ESC research involving—

(i) the creation of a human-animal hybrid embryo,

(ii) the use of a human-animal hybrid for any purpose,

(iii) placing a human-animal hybrid into the body of a person or animal,

(iv) placing a human gamete or embryo into the body of an animal, or

(v) placing an animal gamete or embryo into the body of a person.

(b) In this paragraph, "human-animal hybrid embryo" means an embryo created or altered by—

(i) the fertilisation of a human gamete with an animal gamete,

(ii) the fertilisation of an animal gamete with a human gamete,

(iii) the insertion of an animal cell into a human embryo,

(iv) the insertion of a nucleus from a human cell into an animal egg,

(v) the insertion of a nucleus from an animal cell into a human egg, or

(vi) any other combination of human and animal material.

5. Any other type of ESC research specified, for the purposes of this paragraph, in regulations made under *section 10(3)*.

SCHEDULE 3

Section 154

CRITERIA THAT AHRRA SHALL HAVE REGARD TO IN DETERMINING LICENCE APPLICATION TO PROVIDE AHR TREATMENT

1. Whether the applicant is a fit and proper person to be granted a licence to provide the AHR treatment concerned, both at the time the licence application is made and at the time that the application is determined by the AHRRA.
2. Whether the applicant is tax compliant, both at the time that the licence application is made and at the time that the application is determined by the AHRRA.
3. Whether the applicant has, or has available, the requisite skills and experience to provide the AHR treatment the subject of the licence application to a sufficient standard.
4. Whether the premises specified in the licence application at which it is proposed to provide the AHR treatment the subject of the licence application are suitable for the provision of such treatment (including whether such premises are an authorised tissue establishment within the meaning of the Regulations of 2006).
5. Any additional criteria specified, for the purposes of this paragraph, in regulations made under *section 154(2)*.

SCHEDULE 4

Section 154

CRITERIA THAT AHRRA SHALL HAVE REGARD TO IN DETERMINING LICENCE APPLICATION TO UNDERTAKE ESC RESEARCH

1. Whether the applicant is a fit and proper person to be granted a licence to undertake the ESC research concerned, both at the time the licence application is made and at the time that the application is determined by the AHRRA.

2. Whether the applicant is tax compliant, both at the time that the licence application is made and at the time that the application is determined by the AHRRA.

3. Whether the ESC research concerned is likely to advance—

    (a) knowledge, treatments or other procedures relating to AHR, or

    (b) knowledge or treatment of serious diseases or other serious medical conditions.

4. Whether the aims of the ESC research referred to in *paragraph 3* could not reasonably be achieved through alternative forms of research that do not require the use of, as the case may be—

    (a) embryos,

    (b) embryonic stem cells or stem cell lines, or

    (c) induced pluripotent stem cells or stem cell lines.

5. Whether or not the ESC research concerned has been assessed and approved by a research ethics committee.

6. Whether the applicant has, or has available, the requisite skills and experience to undertake the ESC research the subject of the licence application.

7. Whether the premises specified in the licence application at which it is proposed to undertake the ESC research the subject of the application are suitable for such undertaking.

8. Any additional criteria specified, for the purpose of this paragraph, in regulations made under *section 154(2)*.

SCHEDULE 5

Section 156

TYPES OF CONDITIONS THAT AHRRA MAY ATTACH TO LICENCE AUTHORISING PROVISION OF AHR TREATMENT OR THAT ARE DEEMED TO BE ATTACHED TO SUCH LICENCE

Part 1

TYPES OF CONDITIONS THAT AHRRA MAY ATTACH TO LICENCE

1. A condition requiring the holder of a licence to give notice in writing to the AHRRA of any change of circumstances that a reasonable person would consider might be a change in circumstances—

    (a) that will or may adversely affect, in a material way, the provision of the AHR treatment authorised by the licence, or

    (b) that, if the holder did not hold that licence and were to make a licence application for a licence in the like terms, the provisions of *Part 10*, as in force at the time that the licence was granted, would prevent the AHRRA from granting a licence in such terms to the holder.

2. Any type of condition specified, for the purposes of this paragraph, in regulations made under *section 156(3)*.

Part 2

CONDITIONS DEEMED TO BE ATTACHED TO LICENCE

1. A condition that the holder of a licence continues to be a fit and proper person to hold the licence.

2. (a) A condition that the AHR treatment provider shall not place a relevant gamete or embryo into the body of a woman in an attempt to achieve a pregnancy.

    (b) In this paragraph—

    "enucleated egg or embryo" means an egg or embryo from which the nuclear DNA has been removed;

    "genome" means an organism's complete set of DNA, including all of its genes;

    "mitochondrial donation" and "mitochondria replacement" mean the removal of any nuclear DNA from an egg or embryo that has abnormal mitochondria

and the insertion of this nuclear DNA into another enucleated egg or embryo that has healthy mitochondria;

"relevant gamete or embryo" means a human gamete or embryo—

(i) the genome of which has been modified such that the modification could be inherited by children born from the gamete or embryo or the descendants of such children, or

(ii) which has undergone mitochondrial donation or mitochondrial replacement.

3. A condition specified for the purposes of this paragraph in regulations made under *section 156(3)*.

SCHEDULE 6

Section 156

Types of conditions that AHRRA may attach to licence authorising undertaking of ESC research or that are deemed to be attached to such licence

Part 1

Types of conditions that AHRRA may attach to licence

1. A provision requiring the holder of a licence to give notice in writing to the AHRRA of any change in circumstances that a reasonable person would consider might be a change in circumstances—

    (a) that will or may adversely affect, in a material way, the undertaking of the ESC research authorised by the licence, or

    (b) that, if the holder did not hold that licence and were to make a licence application for a licence in the like terms, the provisions in *Part 10*, as in force at the time that the licence was granted, would prevent the AHRRA from granting a licence in such terms to the holder.

2. A condition that the holder of a licence shall not import embryonic stem cell lines or induced pluripotent stem cell lines for use in ESC research.

3. Any type of condition specified, for the purposes of this paragraph, in regulations made under *section 156(3)*.

Part 2

Conditions deemed to be attached to licence

1. A condition that the holder of a licence continues to be a fit and proper person to hold the licence.

2. A condition that the holder of a licence shall not develop or maintain an embryo *in vitro* beyond the 14th day of its development following fertilisation but excluding any period during which the development of the embryo has been suspended.

3. A condition specified, for the purposes of this paragraph, in regulations made under *section 156(3)*.

SCHEDULE 7

Section 189

REDRESS FOR CONTRAVENTION OF *SECTION 189(5)*

Complaints to rights commissioner

1. (1) In proceedings under Part 4 of the Workplace Relations Act 2015 in respect of a complaint of a contravention of *section 189(5)*, it shall not be necessary for the employee to show that he or she has at least one year's continuous service with the employer concerned.

(2) Where a complaint under *subparagraph (1)* is made, the rights commissioner shall—

(a) give the parties an opportunity to be heard by the commissioner and to present to the commissioner any evidence relevant to the complaint,

(b) give a decision in writing in relation to it, and

(c) notify the parties of that decision.

(3) A decision of an adjudication officer under section 41 of the Workplace Relations Act 2015 in relation to a complaint of a contravention of *section 189(5)* shall do one or more of the following, namely—

(a) declare that the complaint was or, as the case may be, was not well founded,

(b) require the employer to take a specified course of action, which may include, in a case where the penalisation constitutes a dismissal, reinstatement or reengagement, or

(c) require the employer to pay to the employee compensation of such amount (if any) as the adjudication officer considers just and equitable having regard to all of the circumstances, but not exceeding 104 weeks' remuneration in respect of the employee's employment calculated in accordance with regulations under section 17 of the Unfair Dismissals Act 1977.

(4) Subject to *subparagraph (10)*, a rights commissioner shall not entertain a complaint under this paragraph if it is presented to him or her after the expiration of the period of 6 months beginning on the date of the contravention to which the complaint relates.

(5) Notwithstanding *subparagraph (4)*, a rights commissioner may entertain a complaint under this paragraph presented to him or her after the expiration of the period referred to in *subparagraph (4)* (but not later than 6 months after such expiration) if he or she is satisfied that the failure to present the complaint within that period was due to exceptional circumstances.

(6) A complaint shall be presented by giving notice of it in writing to a rights commissioner and the notice shall contain such particulars and be in such form as may be specified from time to time by the Minister for Enterprise, Trade and Employment.

(7) A copy of a notice under *subparagraph (6)* shall be given to the other party concerned by the rights commissioner.

(8) Proceedings under this paragraph before a rights commissioner shall be conducted otherwise than in public.

(9) A rights commissioner shall furnish the Labour Court with a copy of each decision given by the commissioner under *subparagraph (2)*.

(10) Where a delay by an employee in presenting a complaint under this paragraph is due to any misrepresentation by the employer, *subparagraph (4)* shall be construed as if the reference to the date of the contravention were a reference to the date on which the misrepresentation came to the employee's notice.

Appeals from decisions of rights commissioner

2. A decision of the Labour Court under section 44 of the Workplace Relations Act 2015, on appeal from a decision of an adjudication officer referred to in *paragraph 1(3)*, shall affirm, vary or set aside the decision of the adjudication officer.

Paragraphs 1 and 2: supplemental provisions

3. In proceedings under Part 4 of the Workplace Relations Act 2015 in relation to a complaint that *section 189(5)* has been contravened, it shall be presumed, until the contrary is proved, that the employee concerned acted reasonably and in good faith in forming the opinion and making the communication concerned.

4. (a) If penalisation of an employee, in contravention of *section 189(5)*, constitutes a dismissal of the employee as referred to in *paragraph (a)* of the definition of "penalisation" in *section 189(8)*, the employee (or, in the case of an employee who has not reached the age of 18 years, the employee's parent or guardian with the consent of the employee) may institute proceedings in respect of that dismissal under the Unfair Dismissals Acts 1977 to 2015 or to recover damages at common law for wrongful dismissal and, if the employee or his or her parent or guardian, as the case may be, does so, a complaint in relation to such dismissal may not be presented to an adjudication officer under section 41 of the Workplace Relations Act 2015.

(b) If an employee (or, in the case of an employee who has not reached the age of 18 years, the employee's parent or guardian with the consent of the employee) presents a complaint to an adjudication officer under section 41 of

the Workplace Relations Act 2015 in respect of a dismissal referred to in *clause (a)*, the employee or his or her parent or guardian, as the case may be, may not institute proceedings in respect of that dismissal under the Unfair Dismissals Acts 1977 to 2015 or to recover damages at common law for wrongful dismissal.