Assisted Reproductive Technology Regulation 2014

[2014-555]

New South Wales

Status Information

Currency of version

Historical version for 15 November 2019 to 23 July 2020 (accessed 30 November 2024 at 4:36)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Editorial note**
  The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-rules (em-dashes). Text of the legislation is not affected.

  This version has been updated.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the Interpretation Act 1987.

File last modified 15 November 2019

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Contents

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Assisted Reproductive Technology Regulation 2014*.

2 Commencement

This Regulation commences on 1 September 2014 and is required to be published on the NSW legislation website.

Note—

This Regulation replaces the *Assisted Reproductive Technology Regulation 2009* which is repealed on 1 September 2014 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation—

ART legislation means the Act and this Regulation and the following Acts or the regulations made under those Acts—

(a) the *Human Cloning for Reproduction and Other Prohibited Practices Act 2003*,

(b) the *Research Involving Human Embryos (New South Wales) Act 2003*,

(c) the *Prohibition of Human Cloning for Reproduction Act 2002* of the Commonwealth,

(d) the *Research Involving Human Embryos Act 2002* of the Commonwealth.

federal accreditation means accreditation by—

(a) the Reproductive Technology Accreditation Committee of the Fertility Society of Australia, or

(b) any other body prescribed under paragraph (b) of the definition of ***accredited ART centre*** in section 8 of the *Research Involving Human Embryos Act 2002* of

the Commonwealth.

the Act means the *Assisted Reproductive Technology Act 2007*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Registration and provision of services

4 Registration application fee: section 7(2)

The fee that must accompany an application for registration is $2,821.

5 Matters to be included in application: section 7(3)(e)

An application for registration must include the following—

(a) a statement as to whether or not the applicant has been convicted of contravening any ART legislation,

(b) a statement as to whether or not the applicant has been refused federal accreditation or has had federal accreditation suspended, cancelled or revoked,

(c) in the case of an applicant that is a corporation—

(i) the registered number (being the Australian Company Number or Australian Registered Body Number) of the corporation, and

(ii) the address of the registered office and principal place of business of the corporation.

6 Annual registration fee: section 7(8)

(1) The annual registration fee is $1,997.

(2) In any year a registered ART provider must pay the annual registration fee before the anniversary of the registered ART provider's registration.

7 Notice of events or changes in particulars: section 8(1)(e)

A registered ART provider must give notice to the Secretary of the following events or changes—

(a) the conviction of the ART provider for contravening any ART legislation,

(b) a refusal to grant federal accreditation to the ART provider,

(c) the suspension, cancellation or revocation of the federal accreditation of the ART

provider,

(d) in the case where the registered ART provider is a corporation, any change in the address of the registered office and principal place of business of the corporation.

8 Infection control standards: section 10

An ART provider who does not have federal accreditation must meet the infection control standards in both of the following as in force from time to time—

(a) the *Infection Prevention and Control Policy* published by the Department,

(b) paragraph 5.2.4 of the *Ethical guidelines on the use of assisted reproductive technology in clinical practice and research* published by the National Health and Medical Research Council.

9 Qualifications of counsellors: section 12(2)(b)

A person is qualified to provide counselling services if the person is—

(a) a registered psychologist, or

(b) a medical practitioner who has qualifications in—

(i) psychiatry recognised by the Royal Australian and New Zealand College of Psychiatrists, or

(ii) general practice recognised by the Royal Australian College of General Practitioners,

and who is not providing any ART services to which the counselling relates, or

(c) eligible for membership of the Australian Association of Social Workers.

10 Establishing whether gamete provider is alive: section 24(3)(b)

(1) An ART provider takes reasonable steps to establish whether a gamete provider is alive if—

(a) the last address of the gamete provider of which the ART provider is aware is in another State or Territory, and

(b) the ART provider obtains a certificate from the registering authority of that State or Territory as to whether the death of the gamete provider has been recorded in the register kept under the corresponding registration law of that State or Territory.

(2) In this clause—

corresponding registration law means a law of another State or Territory that provides for the registration of deaths.

registering authority means an authority responsible under a corresponding registration law for the registration of deaths.

Part 3

11–15 (Repealed)

Part 4 Central register—surrogacy information

16, 17 (Repealed)

18 Information to be entered in central register: section 41B(1)

(1) The Secretary is to enter the following in the central register in relation to each surrogacy arrangement that results in the birth of a child—

(a) the full name, date and place of birth and sex of the child,

(b) the following information in relation to each gamete provider or birth parent under the surrogacy arrangement—

(i) full name,

(ii) residential address,

(iii) date and place of birth,

(iv) ethnicity and physical characteristics,

(v) any medical history or genetic test results in relation to the gamete provider or birth parent, or members of the gamete provider's or birth parent's family, that are relevant to the future health of the child or the child's descendents,

(c) the sex and year of birth of each biological sibling of the child.

(2) If provided voluntarily by a person born as a result of a surrogacy arrangement who is an adult and whose parentage is transferred by a parentage order, the Secretary is also to enter the following information in the central register in relation to the person—

(a) residential address,

(b) any medical history or genetic test results in relation to the person that are relevant to the future health of a birth parent or gamete provider under the surrogacy arrangement or the birth parent's or gamete provider's descendents.

19 Disclosure about birth parents and gamete providers: section 41F(1) and (2)

The Secretary must, on application by a person who is an adult and whose parentage was transferred by a parentage order, disclose the following information held on the central

register about each birth parent of the applicant or gamete provider under the surrogacy arrangement—

(a) residential address,

(b) date and place of birth,

(c) ethnicity and physical characteristics,

(d) any medical history or genetic test results in relation to the birth parent or gamete provider, or members of the birth parent's or gamete provider's family, that are relevant to the future health of the applicant or the applicant's descendents.

Note—

Section 41F of the Act also requires the name of the birth parent or gamete provider to be provided. Information may be disclosed under section 41F only to a person who is an adult.

20 Disclosure about biological siblings: section 41F(3)(a)

The Secretary must, on application by an adult person whose parentage has been transferred by a parentage order, disclose the sex and year of birth of each of the applicant's biological siblings.

21 Disclosure to birth parent and gamete provider: section 41G(1)(a)

The Secretary must, on application by a birth parent, or a gamete provider under a surrogacy arrangement, of a person whose parentage is transferred to another person as a result of a parentage order, disclose the sex and year of birth of the person whose parentage is transferred.

Part 5 Miscellaneous

22, 23 (Repealed)

23A Secretary must take psychological report into account: section 40A(3)

In forming an opinion under section 40A of the Act that contact between the applicant and the person whose information is to be disclosed is justified, the Secretary must take into account a report—

(a) that has been prepared by a medical practitioner with expertise in mental health or by a registered psychologist, and

(b) that considers whether the contact between those persons is justified to protect the welfare and best interests of those persons.

23B Time within which notice to applicant must be given: section 41U(1)

The time prescribed is 28 days.

23C Information to be given to Secretary: section 41U(3)(b)

An ART provider must, when giving the Secretary information about a donor under section 41U of the Act, also give the Secretary any identifying information that the ART provider has about each woman who has undergone ART treatment using a gamete donated by the donor and about each offspring born as a result of that ART treatment.

23D Information that Secretary can require: section 41V(1)(d)

The Secretary may require a person to give the Secretary any information (including identifying information) about any woman who has undergone ART treatment using a gamete donated by a specified donor and about any offspring born as a result of that ART treatment.

24 Savings

Any act, matter or thing that, immediately before the repeal of the *Assisted Reproductive Technology Regulation 2009*, had effect under that Regulation continues to have effect under this Regulation.