Reprint
as at 1 July 2013

Human Assisted Reproductive Technology Act 2004

Public Act	2004 No 92
Date of assent	21 November 2004
Commencement	see section 2

Contents

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Justice.

1 Title

This Act is the Human Assisted Reproductive Technology Act 2004.

2 Commencement

(1) Part 1, subpart 1 of Part 2, the provisions of section 67 (other than subsection (2)(c)(ii) to (v)), sections 68 to 75, the provisions of section 76(1), sections 77, 79 to 85, and 87, and Schedules 1 and 2 come into force on the day after the date on which this Act receives the Royal assent.

(2) The rest of this Act comes into force on the expiry of 9 months after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

3 Purposes

This Act has the following purposes:

(a) to secure the benefits of assisted reproductive procedures, established procedures, and human reproductive research for individuals and for society in general by taking appropriate measures for the protection and promotion of the health, safety, dignity, and rights of all individuals, but particularly those of women and children, in the use of these procedures and research:

(b) to prohibit unacceptable assisted reproductive procedures and unacceptable human reproductive research:

(c) to prohibit certain commercial transactions relating to human reproduction:

(d) to provide a robust and flexible framework for regulating and guiding the performance of assisted reproductive procedures and the conduct of human reproductive research:

(e) to prohibit the performance of assisted reproductive procedures (other than established procedures) or the conduct of human reproductive research without the continuing approval of the ethics committee:

(f) to establish a comprehensive information-keeping regime to ensure that people born from donated embryos or donated cells can find out about their genetic origins.

4 Principles

All persons exercising powers or performing functions under this Act must be guided by each of the following principles that is relevant to the particular power or function:

(a) the health and well-being of children born as a result of the performance of an assisted reproductive procedure or an established procedure should be an important consideration in all decisions about that procedure:

(b) the human health, safety, and dignity of present and future generations should be preserved and promoted:

(c) while all persons are affected by assisted reproductive procedures and established procedures, women, more than men, are directly and significantly affected by their application, and the health and well-being of women must be protected in the use of these procedures:

(d) no assisted reproductive procedure should be performed on an individual and no human reproductive research should be conducted on an indi-

vidual unless the individual has made an informed choice and given informed consent:

(e) donor offspring should be made aware of their genetic origins and be able to access information about those origins:

(f) the needs, values, and beliefs of Māori should be considered and treated with respect:

(g) the different ethical, spiritual, and cultural perspectives in society should be considered and treated with respect.

5 Interpretation

In this Act, unless the context otherwise requires,—

advisory committee means the committee established under section 32

approval, in relation to the ethics committee, means an approval given by the ethics committee under section 19

assisted reproductive procedure or **procedure**—

(a) means a procedure performed for the purpose of assisting human reproduction that involves—

(i) the creation of an *in vitro* human embryo; or

(ii) the storage, manipulation, or use of an *in vitro* human gamete or an *in vitro* human embryo; or

(iii) the use of cells derived from an *in vitro* human embryo; or

(iv) the implantation into a human being of human gametes or human embryos; but

(b) does not include an established procedure

authorised person—

(a) means a person authorised in writing by the Director-General of Health to enter and inspect premises for the purposes of this Act; and

(b) includes the Director-General of Health

cloned embryo means a human embryo that is a genetic copy (whether identical or not) of a living or dead human being, a still-born child, a human embryo, or a human foetus

Customs officer has the same meaning as in section 2(1) of the Customs and Excise Act 1996

donated cell means the whole or part of an *in vitro* human gamete or other *in vitro* human cell that is donated for reproductive purposes

donated embryo means an *in vitro* human embryo that is donated for reproductive purposes

donor means a person from whose cells a donated embryo is formed or from whose body a donated cell is derived; and,—

(a) in relation to a donor offspring, means the donor or donors of a donated embryo or a donated cell from which the donor offspring was formed; and

(b) in relation to an embryo that is a donated embryo or is formed from a donated cell, means the donor or donors of that donated embryo or donated cell; and

(c) in relation to a provider, means the donor or donors of a donated embryo or a donated cell used or available for use in a service performed or arranged by the provider

donor offspring,—

(a) in relation to a donor, means a person formed from a donated embryo, or a donated cell, that is derived wholly or partly from the donor's body; and

(b) in relation to a provider, means a person formed from a donated embryo or a donated cell used in a service performed or arranged by the provider

embryo includes a zygote and a cell or a group of cells that has the capacity to develop into an individual; but does not include stem cells derived from an embryo

established procedure means any procedure, treatment, or application declared to be an established procedure under section 6

ethics committee means the committee designated under section 27

gamete means—

(a) an egg or a sperm, whether mature or not; or

(b) any other cell (whether naturally occurring or artificially formed or modified) that—

(i) contains only 1 copy of all or most chromosomes; and

(ii) is capable of being used for reproductive purposes

guardian, in relation to a donor offspring, means the donor offspring's guardian within the meaning of the Guardianship Act 1968

human reproductive research means research that uses or creates a human gamete, a human embryo, or a hybrid embryo

hybrid embryo means an embryo that is formed—

(a) by fusing a human gamete with a non-human gamete; or

(b) by fusing or compacting a cell of a human embryo with the cell of a non-human embryo; or

(c) by fusing or compacting a cell or cells of a human embryo with the cell or cells of another human embryo; or

(d) by transferring the nucleus of a human cell into a non-human egg or a non-human embryo; or

(e) by transferring the nucleus of a non-human cell into a human egg or a human embryo

identifying information, in relation to any person, means that person's name, address, or contact details; and includes any information that is likely to enable another person to ascertain that person's name, address, or contact details

implant includes insert into and inject into

in vitro, in relation to an embryo, a foetus, gamete, or cell means an embryo, a foetus, gamete, or cell that is outside a living organism

Minister means the Minister of Health

person responsible, in relation to an activity approved by the ethics committee, means the person for the time being approved under section 20

provider—

(a) means a person who, in the course of a business (whether or not carried on with a view to making a profit), performs, or arranges the performance of, services in which donated embryos or donated cells are used; and

(b) includes a successor provider

Registrar-General means the person for the time being appointed to that office under section 79(1) of the Births, Deaths, Marriages, and Relationships Registration Act 1995

still-born child has the meaning given to it by section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995

successor provider means the successor, receiver, or liquidator of any provider or successor provider

surrogacy arrangement means an arrangement under which a woman agrees to become pregnant for the purpose of surrendering custody of a child born as a result of the pregnancy

valuable consideration includes an inducement, discount, or priority in the provision of a service.

Section 5 **Registrar-General**: amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 5 **still-born child**: amended, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

6 Procedures or treatments may be declared to be established procedures

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister given after advice tendered by the advisory committee, declare any of the following to be an established procedure for the purposes of the definition of assisted reproductive procedure in section 5:

(a) a medical, scientific, or technical procedure:

(b) a medical treatment:

(c) an application of a medical, scientific, or technical procedure:

(d) an application of a medical treatment.

(2) In tendering advice to the Minister, under subsection (1), about a procedure or treatment, the advisory committee must provide the Minister with a report that sets out the following:

(a) information about the procedure or treatment:

(b) an assessment, drawn from published and peer reviewed research, of the known risks and benefits to health of the procedure or treatment:

(c) advice as to whether, in its expert opinion, the known risks to health of the procedure or treatment fall within a level of risk that is acceptable in New Zealand:

(d) an ethical analysis of the procedure or treatment:

(e) advice as to whether, in its expert opinion, the Minister should recommend that the procedure or treatment be declared an established procedure.

(3) Promptly after providing the Minister with a report under subsection (2), the chairperson of the advisory committee must ensure that the report is published on the Internet.

7 Act binds the Crown

This Act binds the Crown.

Part 2
Prohibited and regulated activities

Subpart 1—Prohibited actions

8 Prohibited actions

(1) Every person commits an offence who takes an action described in Schedule 1.

(2) Every person commits an offence who, knowing that an *in vitro* gamete, an *in vitro* embryo or an *in vitro* foetus, or an *in vitro* being has been formed by an action described in Schedule 1, imports into, or exports from, New Zealand that *in vitro* gamete, *in vitro* embryo, *in vitro* foetus, or *in vitro* being.

(3) Every person commits an offence who, knowing that a gamete, an embryo or foetus, or a being has been formed by an action described in Schedule 1, possesses, without reasonable excuse, that gamete, embryo, foetus, or being.

(4) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 5 years or a fine not exceeding $200,000, or both.

Section 8(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

9 Duty to stop development of *in vitro* human or hybrid embryos

(1) This section applies to an *in vitro* human embryo or an *in vitro* hybrid embryo that has been artificially formed (whether in New Zealand or elsewhere).

(2) Every person commits an offence who, knowing that the embryo has been developing after the specified day, intentionally—

(a) imports the embryo into New Zealand or exports the embryo from New Zealand; or

(b) does anything,—

(i) in the case of a human embryo, to cause the further development of the embryo outside the body of a human being; or

(ii) in the case of a hybrid embryo, to cause the further development of the embryo; or

(c) possesses the embryo with a view to using it in human reproductive research or for reproductive purposes; or

(d) uses the embryo in human reproductive research or for reproductive purposes.

(3) Every provider and every person responsible for an activity approved by the ethics committee commits an offence who fails to take all practicable steps to ensure that subsection (2) is not contravened.

(4) For the purposes of this section, **specified day** means,—

(a) in relation to a human embryo, the 14th day after its formation (exclusive of any day during which the development of the embryo is suspended); and

(b) in relation to a hybrid embryo, the 14th day after its formation (exclusive of any day during which the development of the embryo is suspended) or the day on which the primitive streak appears, whichever is the earlier.

(5) Every person who commits an offence against subsection (2) is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding $100,000, or both.

(6) Every person who commits an offence against subsection (3) is liable on conviction to a fine not exceeding $50,000.

Section 9(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 9(6): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

10 Restriction and prohibition on further storage of human *in vitro* embryos and human *in vitro* gametes stored for applicable period (10 years and extensions)

(1) This section restricts then prohibits storage, manipulation, and use of a human *in vitro* gamete or a human *in vitro* embryo (being an embryo whose development has been suspended) that has been stored for the applicable period.

(2) For a 6-month period starting with the expiry of the applicable period, any person may store for disposal or dispose of, but no person may in any other way store, manipulate, or use, the gamete or embryo.

(3) After that 6-month period, no person may for any purpose store, manipulate, or use the gamete or embryo.

(4) **Applicable period**, in this section and sections 10A to 10D, and in relation to the gamete or embryo, means—

(a) a period of 10 years starting when storage of the gamete or embryo began; or

(b) if the ethics committee has, under section 10A, approved in respect of the gamete or embryo 1 or more extensions, means that 10-year period and all of those extensions.

(5) In calculating, for the purposes only of this section, the period for which a human *in vitro* gamete or a human *in vitro* embryo has been stored, any storage of that gamete or embryo before 22 November 2004 must be disregarded.

(6) In calculating, for the purposes only of this section, the period for which a human *in vitro* embryo has been stored, that period must be treated as including any storage on or after 22 November 2004 of the only stored, or the (or any one of the) longest stored, human *in vitro* gamete or gametes (if any) used in that embryo's creation.

(7) In calculating, for the purposes only of this section, whether a gamete or embryo has been stored for the applicable period, storage of that gamete or embryo, or of a gamete used in creating that embryo, must be included even if it occurred outside New Zealand.

(8) This section is not limited by, and does not limit, provisions of subpart 2 of this Part that apply to storage—

(a) of an *in vitro* human gamete or an *in vitro* human embryo; and

(b) that is, or is part of, any assisted reproductive procedure or human reproductive research.

(9) Every person commits an offence who contravenes this section and is liable on conviction to a fine not exceeding $20,000.

Section 10: substituted (with effect on 22 November 2004), on 16 October 2010, by section 5 of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

Section 10(9): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

10A Ethics committee may approve extensions

(1) The ethics committee may from time to time, before the applicable period expires and on a written application for the purpose, approve in respect of the gamete or embryo 1 or more extensions to the applicable period.

(2) An approval given under this section in respect of storage of the only stored, or the (or any one of the) longest stored, gamete or gametes used in the creation of an embryo also applies to any storage of that embryo.

(3) Sections 29 and 30 apply (without limitation) to, and to the giving, changing, or cancelling in accordance with sections 10B to 10D of, an approval under this section.

Section 10A: inserted, on 16 October 2010, by section 6 of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

10B Giving of approval under section 10A

(1) The ethics committee may give an approval under section 10A (in this section and sections 10C and 10D called an **approval**) only if—

(a) the giving of approvals under section 10A is covered in relevant guidelines issued by the advisory committee; and

(b) the ethics committee is satisfied that the approval is consistent with relevant guidelines issued and relevant advice given by the advisory committee.

(2) If relevant new information becomes available, the ethics committee may, for any reason that it considers appropriate, reconsider an application—

(a) for an approval; and

(b) that it has previously declined.

(3) The ethics committee may give an approval subject to any conditions it thinks fit to impose.

Section 10B: inserted, on 16 October 2010, by section 6 of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

10C Changing of approval under section 10A

(1) The ethics committee may change an approval only if—

(a) the changing of approvals under section 10A is covered in relevant guidelines issued by the advisory committee; and

(b) the ethics committee is satisfied that the changing of the approval is consistent with relevant guidelines issued and relevant advice given by the advisory committee.

(2) The ethics committee may change an approval in 1 or more of the following respects:

(a) by varying a condition previously imposed on the approval:

(b) by revoking a condition previously imposed on the approval:

(c) by imposing 1 or more new conditions on the approval.

(3) The ethics committee may change the approval on its own initiative only if it is satisfied that the change is necessary—

(a) to ensure consistency with this Act or relevant guidelines issued or relevant advice given by the advisory committee before or after the date on which the approval was given; or

(b) to correct an error or omission made by the ethics committee.

(4) The ethics committee may not change the approval on its own initiative unless it has first—

(a) informed the person storing the gamete or embryo under the approval concerned why it is considering the change; and

(b) given that person a reasonable time to make written submissions and be heard on the question, either personally or by that person's representative; and

(c) considered any submissions made in that time.

(5) The ethics committee may change the approval at the request of the person storing the gamete or embryo under the approval if it is satisfied that the change is consistent with relevant guidelines issued or relevant advice given by the advisory committee before or after the date on which the approval was given.

Section 10C: inserted, on 16 October 2010, by section 6 of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

10D Cancellation of approval under section 10A

(1) The ethics committee may cancel an approval only if—

(a) the cancellation of approvals under section 10A is covered in relevant guidelines issued by the advisory committee; and

(b) the ethics committee is satisfied that the cancellation is consistent with relevant guidelines issued and relevant advice given by the advisory committee.

(2) The ethics committee may cancel an approval, in whole or in part, if it is satisfied—

(a) that 1 or more conditions stated in the approval have been breached; or

(b) that the storage of the gamete or embryo undertaken, or purportedly undertaken, under the approval—

(i) is inconsistent with any relevant guidelines issued or any relevant advice given by the advisory committee on or before or after the date on which the approval was given; or

(ii) is inconsistent with the description set out in the application in which the approval was sought; or

(iii) breaches or has breached this Act; or

(c) that, since giving the approval, the ethics committee has become aware that the storage of the gamete or embryo to which the approval relates poses a serious risk to human health and safety.

(3) The ethics committee may not cancel an approval under subsection (2) unless it has first—

(a) informed the person storing the gamete or embryo under the approval why it is considering cancelling the approval; and

(b) given that person a reasonable time to make written submissions and be heard on the question, either personally or by that person's representative; and

(c) considered any submissions made in that time; and

(d) informed the person storing the gamete or embryo under the approval of the forthcoming cancellation and of the date on which the cancellation is to take effect.

(4) The ethics committee cancels an approval under this section by written notice given or sent to the person who is, or to any other person who appears to be in charge of, storing the gamete or embryo to which the approval relates.

(5) A notice issued under subsection (4) takes effect according to its tenor and must—

(a) state the date on which it takes effect (not being a date earlier than the date of the notice); and

(b) if the cancellation relates to only part of the approval, identify the part to which it relates.

Section 10D: inserted, on 16 October 2010, by section 6 of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

11 Restrictions on sex selection of human embryos

(1) No person may, for reproductive purposes,—

(a) select an *in vitro* human embryo for implantation into a human being on the basis of the sex of the embryo; or

(b) perform any procedure, or provide, prescribe, or administer any thing in order to ensure, or in order to increase the probability, that a human embryo will be of a particular sex.

(2) Every person commits an offence who contravenes this section and is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding $100,000, or both.

(3) It is a defence to a charge of an offence against this section if the defendant proves that the act to which the charge relates was performed to prevent or treat a genetic disorder or disease.

Section 11(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

12 Restriction on obtaining gametes from minors

(1) No person may—

(a) obtain a gamete from an individual who is under 16 years; or

(b) use a gamete that has been obtained from an individual who is under 16 years.

(2) Every person commits an offence who contravenes this section and is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding $100,000, or both.

(3) It is a defence to a charge of an offence against this section if the defendant proves that the gamete concerned was obtained or used by a person—

(a) to preserve the gamete; or

(b) to bring about the birth of a child that was, in the reasonable opinion of the person, likely to be brought up by the individual from whom the gamete was obtained.

Section 12(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

13 Commercial supply of human embryos or human gametes prohibited

(1) No person may give or receive, or agree to give or receive, valuable consideration for the supply of a human embryo or human gamete.

(2) Every person commits an offence who contravenes subsection (1) and is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding $100,000, or both.

Section 13(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

14 Status of surrogacy arrangements and prohibition of commercial surrogacy arrangements

(1) A surrogacy arrangement is not of itself illegal, but is not enforceable by or against any person.

(2) Subsection (1) does not affect Part 2 of the Status of Children Act 1969.

(3) Every person commits an offence who gives or receives, or agrees to give or receive, valuable consideration for his or her participation, or for any other person's participation, or for arranging any other person's participation, in a surrogacy arrangement.

(4) Subsection (3) does not apply to a payment—

(a) to the provider concerned for any reasonable and necessary expenses incurred for any of the following purposes:

(i) collecting, storing, transporting, or using a human embryo or human gamete:

(ii) counselling 1 or more parties in relation to the surrogacy agreement:

(iii) insemination or *in vitro* fertilisation:

(iv) ovulation or pregnancy tests; or

(b) to a legal adviser for independent legal advice to the woman who is, or who might become, pregnant under the surrogacy arrangement.

(5) Every person who commits an offence against subsection (3) is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding $100,000, or both.

Section 14(2): amended, on 20 September 2007, by section 4 of the Human Assisted Reproductive Technology Amendment Act 2007 (2007 No 63).

Section 14(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

15 Advertising for illegal action prohibited

(1) No person may, with the intention of obtaining responses from members of the public, publish, or arrange for any other person to publish, any material that invites persons to participate, or to inquire about opportunities for participating, in actions that are prohibited by section 8 or section 13 or section 14.

(2) For the purposes of subsection (1), **publish** means—

(a) insert in any newspaper or other periodical publication printed, published, or distributed in New Zealand; or

(b) send to any person, by post or otherwise; or

(c) deliver to any person or leave upon premises occupied by any person; or

(d) broadcast within the meaning of the Broadcasting Act 1989; or

(e) include in any film or video recording; or

(f) include in any disk for use with a computer; or

(g) disseminate by means of the Internet or any other electronic medium; or

(h) distribute by any means; or

(i) display by way of a sign, notice, poster, or other means; or

(j) bring to the notice of the public in New Zealand in any other manner.

(3) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding $2,500, or both.

Section 15(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Subpart 2—Activities requiring approval of ethics committee

Activities to proceed only in accordance with approvals and regulations

16 Assisted reproductive procedures and human reproductive research only to proceed with prior approval

(1) Every person commits an offence who performs an assisted reproductive procedure or conducts human reproductive research without the prior approval in writing of the ethics committee.

(2) Every person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $50,000.

Section 16(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

17 Approved activities must proceed in accordance with applicable conditions and regulations

The person responsible for an activity approved by the ethics committee must ensure that the activity is undertaken in accordance with—

(a) any conditions imposed by the committee under section 19 or section 21; and

(b) any regulations made under section 76 that for the time being govern the activity.

Matters to be considered and decided by ethics committee

18 Applications for approval

(1) The ethics committee may receive a written application for an approval for an assisted reproductive procedure or for human reproductive research if the application—

(a) is in a form approved by the ethics committee; and

(b) describes the activity for which approval is sought; and

(c) states the purpose of the proposed activity; and

(d) nominates an appropriate person who is to be responsible for the activity.

(2) If the kind of activity for which an approval is sought is not covered in guidelines or advice issued or given by the advisory committee, the ethics committee must—

(a) decline the application; and

(b) refer the application to the advisory committee.

(3) The ethics committee may, for any reason that it considers appropriate, reconsider an application that it has previously declined if relevant new information becomes available.

19 Approval of assisted reproductive procedure or research

(1) The ethics committee may give its written approval—

(a) for the performance of assisted reproductive procedures by a nominated person; or

(b) for the conduct of human reproductive research by a nominated person.

(2) The ethics committee may not give an approval unless it is satisfied that the activity proposed to be undertaken under the approval is consistent with relevant guidelines or relevant advice issued or given by the advisory committee.

(3) The ethics committee may give an approval subject to any conditions it thinks fit to impose, which may, without limitation,—

(a) limit the duration of the approval; or

(b) limit the individual or individuals on whom any assisted reproductive procedure may be performed to a particular individual or to particular individuals or to a class or classes of individuals.

(4) The ethics committee must impose any conditions that it considers are required to ensure that the informed consent of any person is obtained before—

(a) the person is involved in an activity to be undertaken under the approval; or

(b) 1 or more embryos, gametes, or other cells derived from the person are used.

(5) In an approval for human reproductive research, the ethics committee must impose a condition that requires any person specified in the approval—

(a) to prepare, in accordance with any requirements stated by the committee, reports on the research (consisting of progress reports and a final report); and

(b) to provide those reports to the committee,—

(i) in the case of progress reports, at specified intervals of not less than 1 year; and

(ii) in the case of the final report, on completion of the research.

20 Person responsible for activity

(1) Before the ethics committee gives an approval for an activity, it must approve a person nominated under section 18(1)(d) as the person responsible for the activity to be undertaken under the approval.

(2) If, at any time, the person responsible for an activity undertaken under an approval is, for any reason, unable or unwilling to perform the person's duties, the activity under the approval must be suspended until the ethics committee concerned approves, or 1 or more members of the committee authorised by the committee in that behalf approve, another person nominated by the agency that

applied for that approval under section 18 as the person responsible for the activity.

(3) Before the ethics committee approves a person under this section, the committee must be satisfied that the person—

(a) is able to ensure that the activity concerned will be undertaken in a manner that is consistent with relevant guidelines or relevant advice issued by the advisory committee; and

(b) is willing to assume responsibility for the activity.

(4) Every person appointed under this section must be a natural person.

21 Ethics committee may change conditions

(1) The ethics committee may change an approval in 1 or more of the following respects:

(a) by varying a condition previously imposed on the approval:

(b) by revoking a condition previously imposed on the approval:

(c) by imposing 1 or more new conditions on the approval.

(2) The ethics committee may change the approval on its own initiative only if it is satisfied that the change is necessary—

(a) to ensure consistency with this Act or relevant guidelines or relevant advice issued or given by the advisory committee before or after the date on which the approval was given; or

(b) to correct an error or omission made by the ethics committee.

(3) The ethics committee may change the approval at the request of the person responsible for the activity undertaken under the approval if it is satisfied that the change is consistent with relevant guidelines or relevant advice issued or given by the advisory committee before or after the date on which the approval was given.

(4) In any case where the person responsible for the activity requests the ethics committee to exercise its power under subsection (1)(a), the power may be exercised by 1 or more members of the committee authorised by the committee in that behalf.

(5) The ethics committee may not change the approval on its own initiative unless it has first—

(a) informed the person responsible for the activity undertaken under the approval concerned why it is considering the change; and

(b) given that person a reasonable time to make written submissions and be heard on the question, either personally or by his or her representative; and

(c) considered any submissions made in that time.

22 Ethics committee may cancel approval

(1) The ethics committee may cancel an approval, in whole or in part, if it is satisfied—

(a) that 1 or more conditions stated in the approval have been breached; or

(b) that the activity undertaken, or purportedly undertaken, under the approval—

(i) is inconsistent with any relevant guidelines issued or relevant advice given by the advisory committee on or before or after the date on which the approval was given; or

(ii) is inconsistent with the description set out in the application in which the approval was sought; or

(iii) breaches or has breached this Act or regulations made under section 76; or

(c) that, since giving the approval, the ethics committee has become aware that the activity to which the approval relates poses a serious risk to human health and safety.

(2) The ethics committee must cancel an approval so far as it relates to a kind of assisted reproductive procedure or human reproductive research that has become subject to a moratorium imposed under section 24.

(3) The ethics committee may not cancel an approval under subsection (1) unless it has first—

(a) informed the person responsible for the activity under the approval why it is considering cancelling the approval; and

(b) given that person a reasonable opportunity to make written submissions and be heard on the question, either personally or by his or her representative.

(4) Before the ethics committee cancels an approval under subsection (2), it must endeavour to inform the person responsible for the activity of the forthcoming cancellation and of the date on which the cancellation is to take effect.

(5) If the ethics committee cancels an approval, it may give directions on how the activity affected by the cancellation is to be stopped.

(6) Directions under subsection (5) may, without limitation, relate to the preservation, custody, or disposal of *in vitro* human gametes, *in vitro* human embryos, or *in vitro* hybrid embryos.

(7) The ethics committee cancels an approval under this section by written notice given or sent to the person responsible for the activity to which the approval relates or to any other person who appears to be in charge of the activity.

(8) A notice issued under subsection (7) takes effect according to its tenor and must—

(a) state the date on which it takes effect (not being a date earlier than the date of the notice); and

(b) if the cancellation relates to only part of the approval, identify the part to which it relates.

Section 22(1)(b)(i): amended, on 16 October 2010, by section 7 of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

23 If approval cancelled, activity must be stopped

If the ethics committee cancels an approval, the person who, immediately before the cancellation, is the person responsible for the activity under the approval must—

(a) ensure that the activity is stopped; and

(b) comply with any directions given, under section 22(5), on how the activity is to be stopped.

Moratorium for particular forms of assisted reproductive procedure or human reproductive research

24 Moratorium may be imposed on forms of assisted reproductive procedure or human reproductive research

(1) For the purpose of allowing time for the development of advice or guidelines, or both, about any kind of assisted reproductive procedure or human reproductive research, the Governor-General may, by Order in Council made on the recommendation of the Minister, declare a particular kind of assisted reproductive procedure or human reproductive research to be subject to a moratorium for a period not exceeding 18 months.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, extend a moratorium imposed under subsection (1) for 1 further period not exceeding 18 months.

(3) After the imposition of a moratorium under subsection (1) on a form of assisted reproductive procedure or human reproductive research, the advisory committee must, by a date agreed with the Minister, provide the Minister with information, advice, and, if the committee thinks fit, recommendations on that form of procedure or research.

25 Committee must not consider applications for approvals subject to moratorium

During any time that a kind of assisted reproductive procedure or human reproductive research is subject to a moratorium imposed under section 24, the ethics committee must not consider or grant a request to approve a proposal for that form of procedure or research.

26 Offence to perform procedures or conduct research subject to moratorium

(1) Every person commits an offence who performs an assisted reproductive procedure or conducts human reproductive research in the following circumstances:

(a) the procedure or research is at the time of its performance of a kind that is subject to a moratorium imposed under section 24(1); and

(b) the ethics committee—

(i) has never given its approval for the procedure or research; or

(ii) has cancelled any approval previously given for the procedure or research.

(2) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding $100,000, or both.

Section 26(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Designation and functions of ethics committee

27 Designation of ethics committee

(1) The Minister may, by written notice given to any committee, designate the committee as the ethics committee for the purposes of this Part.

(2) The Minister may designate a committee—

(a) that the Minister establishes for the purposes of this section; or

(b) that has been established for another purpose.

(3) In designating a committee under this section, the Minister must ensure that the committee—

(a) complies in its composition with any applicable standard governing ethics committees determined by the national advisory committee appointed under section 16(1) of the New Zealand Public Health and Disability Act 2000; and

(b) includes—

(i) 1 or more members with expertise in assisted reproductive procedures; and

(ii) 1 or more members with expertise in human reproductive research.

(4) The committee designated under this section is subject to any applicable ethical standards determined by the national advisory committee appointed under section 16(1) of the New Zealand Public Health and Disability Act 2000.

(5) Each meeting of the ethics committee may be attended by the chairperson of the advisory committee or a member of the advisory committee nominated by

the chairperson for the meeting, but a person attending under this subsection is not a member of the ethics committee.

(6) If the committee is established for the purposes of this section, the Minister may, by written notice,—

(a) appoint any person to be a member or chairperson of the ethics committee; and

(b) terminate the appointment of a member or chairperson of the ethics committee.

(7) Each member of the ethics committee established for the purposes of this section is appointed on any terms and conditions (including terms and conditions as to remuneration and travelling allowances and expenses) that the Minister determines by written notice to the member.

(8) In order to meet the requirements of subsection (3), the Minister may appoint 1 or more additional members to a committee, being a committee established for another purpose, on any terms and conditions (including terms and conditions as to remuneration and travelling allowances and expenses) that the Minister determines by written notice to the member.

(9) A change in the membership of the committee designated under this section does not affect its designation.

28 Functions of ethics committee

(1) For the purposes of this Part, the ethics committee has the following functions:

(aa) to consider and determine applications for, and to give, change, and cancel in accordance with sections 10B to 10D, approvals under section 10A for extensions to the applicable period for the storage of a human *in vitro* gamete or a human *in vitro* embryo:

(a) to consider and determine applications for approvals for the performance of assisted reproductive procedures or the conduct of human reproductive research:

(b) to keep under review any approvals previously given and, without limitation, to monitor the progress of any assisted reproductive procedures performed or any human reproductive research conducted under current approvals:

(c) to liaise with the advisory committee on general and specific matters relating to assisted reproductive procedures and human reproductive research and, without limitation, to forward to the advisory committee reports received under section 19(5) together with any comments or requests for advice that the ethics committee considers appropriate:

(d) to consult with any persons who, in the opinion of the committee, are able to assist it to perform its functions:

(e) any other functions that the Minister assigns to the committee by written notice.

(2) For the purpose of assisting the ethics committee in the performance of its functions under this Part, the Director-General of Health must provide the committee with administrative support.

Section 28(1)(aa): inserted, on 16 October 2010, by section 8 of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

Duties of ethics committee in relation to advisory committee

29 Ethics committee must operate expeditiously and in accordance with guidelines of advisory committee

In the performance of its functions and the exercise of its powers, the ethics committee must operate—

(a) in accordance with any guidelines issued by the advisory committee; and

(b) expeditiously, having regard, in particular, to the effect that undue delay may have on the reproductive capacity of individuals.

30 Advisory committee to be informed of approvals

As soon as practicable after the ethics committee grants an approval, it must give a copy of the approval and the relevant proposal to the advisory committee.

Presentation and publication requirements

31 Information about ethics committee must be made public

(1) As soon as practicable after giving a notice of the kind specified in subsection (2), the Minister must present a copy of the notice to the House of Representatives.

(2) The kinds of notice are as follows:

(a) a notice designating the ethics committee under section 27:

(b) a notice assigning a function to an ethics committee under section 28(1)(e).

(3) In every annual report of the Ministry of Health, the Ministry must publish—

(a) the name of the chairperson of the ethics committee; and

(b) the names of the members of the ethics committee.

Subpart 3—Advisory committee

Establishment, appointments, and functions

32 Advisory committee must be established

The Minister must establish a committee to be known as the Advisory Committee on Assisted Reproductive Procedures and Human Reproductive Research.

33 Number of members and procedure

(1) The advisory committee—

(a) consists of not fewer than 8 and not more than 12 members; and

(b) may, subject to this Act and any directions that the Minister gives by written notice to the committee, regulate its procedure in any manner that the committee thinks fit.

(2) Each meeting of the advisory committee may be attended by the chairperson of the ethics committee or a member of the ethics committee nominated by the chairperson of the ethics committee for the meeting, but a person attending under this subsection is not a member of the committee.

(3) Promptly after an agenda for, and the minutes of, a meeting of the advisory committee are sent to the members of the committee, the chairperson of the committee must ensure that the agenda and minutes are published on the Internet.

34 Appointment of members

(1) The Minister may appoint any person to be a member or chairperson of the advisory committee and must, before doing so, consult any persons who, in the Minister's opinion, are able to provide advice on prospective appointees who have the required expertise and the ability to reflect relevant perspectives and concerns, including, without limitation, the perspectives and concerns of women.

(2) The Minister may, by written notice, terminate the appointment of a member or chairperson of the advisory committee.

(3) Each member of the advisory committee is appointed on any terms and conditions (including terms and conditions as to remuneration and travelling allowances and expenses) that the Minister determines by written notice to the member.

(4) The advisory committee must include—

(a) 1 or more members with expertise in assisted reproductive procedures; and

(b) 1 or more members with expertise in human reproductive research; and

(c) 1 or more members with expertise in ethics; and

(d) 1 or more Māori members with expertise in Māori customary values and practice and the ability to articulate issues from a Māori perspective; and

(e) 1 or more members with the ability to articulate issues from a consumer perspective; and

(f) 1 or more members with expertise in relevant areas of the law; and

(g) 1 or more members with the ability to articulate the interests of children.

(5) Any person appointed by virtue of subsection (4)(g) must at the time of his or her appointment hold the office of Children's Commissioner or be a representative or employee of the person who holds that office.

(6) At least half the members of the advisory committee must be laypersons.

(7) For the purposes of subsection (6), a layperson is a person who, at no time during the person's membership of the advisory committee or in the 3 years before becoming a member of the committee,—

(a) is a health practitioner within the meaning of the Health Practitioners Competence Assurance Act 2003; or

(b) is involved in health research; or

(c) is employed by or associated with, or has a pecuniary interest in, a provider.

35 Functions of advisory committee

(1) The advisory committee has the following functions:

(aa) to issue guidelines and give advice to the ethics committee on the matters that the ethics committee must take into account in considering whether to give, change, or cancel in accordance with sections 10B to 10D an approval under section 10A for an extension to the applicable period for the storage of a human *in vitro* gamete or a human *in vitro* embryo:

(a) to issue guidelines and give advice to the ethics committee on any matter relating to any kind of assisted reproductive procedure or human reproductive research and to keep such guidelines and advice under review:

(b) to provide the Minister with advice on aspects of, or issues arising out of, kinds of assisted reproductive procedure or human reproductive research and, without limitation, advice as to whether—

(i) this Act or another enactment should be amended to prohibit or provide for any kind of assisted reproductive procedure or human reproductive research:

(ii) on the basis of the information, assessment, advice, and ethical analysis required under section 6(2)(a) to (d), any kind of procedure or treatment should be declared an established procedure:

(iii) any established procedure should be modified or should cease to be an established procedure:

(iv) a moratorium should be imposed on any kind of assisted reproductive procedure or human reproductive research:

(v) regulations should be made under section 76 to regulate the performance of any kind of assisted reproductive procedure or the conduct of any kind of human reproductive research:

(c) to liaise with the ethics committee on general and specific matters relating to assisted reproductive procedures or human reproductive research:

(d) to consult with any persons who, in the opinion of the advisory committee, are able to assist it to perform its functions:

(e) any other function that the Minister assigns to the advisory committee by written notice.

(2) For the purposes of performing its functions under subsection (1), the advisory committee must monitor—

(a) the application, and health outcomes, of assisted reproductive procedures and established procedures; and

(b) developments in human reproductive research.

(3) For the purpose of assisting the advisory committee in the performance of its functions, the Director-General of Health must provide the committee with administrative support.

Section 35(1)(aa): inserted, on 16 October 2010, by section 9(1) of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

Section 35(1)(a): amended, on 16 October 2010, by section 9(2) of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

Guidelines and advice

36 Advisory committee to publish and notify guidelines

(1) The advisory committee may issue guidelines only after it has,—

(a) on the basis of a discussion paper or an outline of the proposed guidelines, given interested parties and members of the public a reasonable opportunity to make submissions; and

(b) taken any such submissions into account.

(2) When the advisory committee issues guidelines, it must—

(a) give copies of the guidelines to the Minister, the Director-General of Health, to the ethics committee, and to providers; and

(b) publish the guidelines on the Internet and in any other publications (if any) that the committee thinks appropriate; and

(c) give public notice of the issue of the guidelines by publishing in any publication that it considers appropriate for the purpose a notice that states—

(i) the date and subject matter of the guidelines; and

(ii) the Internet website on which they are published.

(3) As soon as practicable after receiving a copy of guidelines under subsection (2)(a), the Minister must present a copy of those guidelines to the House of Representatives.

(4) The Director-General of Health must ensure that there are—

(a) sufficient copies of guidelines published under this section available for public inspection, free of charge, at the Head Office of the Ministry of Health during normal office hours; and

(b) sufficient copies of those guidelines available, either for distribution free of charge or for purchase at a reasonable price during normal office hours, at places designated by the Director-General of Health.

37 Advisory committee to provide specific advice in respect of human reproductive research

(1) The advisory committee must, within time frames agreed with the Minister, provide the Minister with information, advice, and, if it thinks fit, recommendations on the following matters in relation to the use of gametes and embryos in human reproductive research:

(a) cloned embryos:

(b) donations of human embryos:

(c) genetic modification of human gametes and human embryos:

(d) human gametes derived from foetuses or deceased persons:

(e) hybrid embryos:

(f) requirements for informed consent:

(g) the import into, or export from, New Zealand of *in vitro* human gametes or *in vitro* human embryos.

(2) In subsection (1)(e), **hybrid embryo** does not include a mixture of animal and human gametes that has been prepared for any diagnostic test.

38 Advisory committee to provide specific advice in respect of human assisted reproductive technology

The advisory committee must, within time frames agreed with the Minister, provide the Minister with information, advice, and, if it thinks fit, recommendations on the following matters in relation to human assisted reproductive technology:

(a) donations of embryos:

(b) embryo splitting:

(c) gametes derived from deceased persons:

(d) requirements for informed consent:

(e) selection of embryos using pre-implantation genetic analysis:

(f) the import into, or export from, New Zealand of *in vitro* donated cells or *in vitro* donated embryos.

39 Advisory committee to call for and consider submissions before giving significant advice

(1) This section applies to advice that—

(a) is given under section 37 or section 38; or

(b) although not given under those sections, is of significant public interest but is not required as a matter of urgency.

(2) The advisory committee may give advice to which this section applies only after it has,—

(a) on the basis of a discussion paper or an outline of the proposed advice, given interested parties and members of the public a reasonable opportunity to make submissions; and

(b) taken any such submissions into account.

(3) For the purposes of subsection (1)(b), advice is not required as a matter of urgency if it relates to the question whether or not a treatment or procedure should be declared to be an established procedure.

40 Public meetings on proposed significant advice

(1) If, in the opinion of the advisory committee, a significant number of persons wish to make oral submissions on a proposal to give advice of the kind to which section 39 applies, the advisory committee must hold as many meetings as are required to enable those submissions to be made.

(2) The advisory committee must—

(a) notify the persons who wish to make oral submissions of the time and place of any meeting to be held under subsection (1); and

(b) publish a notice on the Internet and in any other publication the committee thinks appropriate that states the time, place, and purpose of any such meeting and that it will be held in public.

(3) A meeting held under subsection (1) must be held in public.

41 Requirement to consult

(1) Before the advisory committee gives advice to the Minister or issues guidelines to the ethics committee, it must consult on the proposed advice or guidelines with—

(a) any members of the public that the committee considers appropriate:

(b) appropriate government departments and agencies:

(c) any other person or group that the committee considers appropriate.

(2) Before the advisory committee issues guidelines to the ethics committee, it must consult on the proposed guidelines with the Minister.

Presentation and publication requirements

42 Information about advisory committees to be made public

(1) As soon as practicable after giving a notice of the kind specified in subsection (2), the Minister must present a copy of the notice to the House of Representatives.

(2) The kinds of notice are as follows:

(a) a notice appointing a member or chairperson of the advisory committee under section 34(1):

(b) a notice terminating the appointment of a member of the advisory committee under section 34(2):

(c) a notice assigning a function to the advisory committee under section 35(1)(e):

(d) a notice giving directions as to the procedure of the advisory committee under section 33(1)(b).

(3) The advisory committee must, as soon as practicable after each 12-month period ending on 30 June, give the Minister a report—

(a) on its progress in carrying out its functions; and

(b) on the number and kinds of decisions given by the ethics committee in that period.

(4) As soon as practicable after receiving a report under subsection (3), the Minister must present the report to the House of Representatives.

Part 3
Information about donors of donated embryos or donated cells and donor offspring

Application

43 No retroactive application

Except for section 63, this Part—

(a) applies to an embryo if, and only if, the embryo is a donated embryo, or is formed from a donated cell, that was donated after the commencement of this Part; and

(b) applies to a donated cell if, and only if, it was donated after the commencement of this Part; and

(c) applies to a donor offspring if, and only if, the donated embryo or every donated cell from which the donor offspring was formed was donated after the commencement of this Part.

44 Provisions not applicable to all information

The provisions of this Part apply to information only if the information is required to be kept by this Part.

Duties of keepers of information when information requests are made

45 Duty to ensure that person requesting information is authorised

(1) When a person requests a provider or the Registrar-General to give the person access to information required to be kept by this Part, the provider or the Registrar-General must not give the person access to that information unless satisfied about the identity of the person who is making the request.

(2) Each provider and the Registrar-General—

(a) must adopt appropriate procedures to ensure that any information intended for a person is received—

(i) only by that person; or

(ii) if the request is made by an agent of the person, only by that person or his or her agent; and

(b) must ensure that, if the request is made by an agent of the person, the agent has the written authority of that person to obtain the information or is otherwise properly authorised by that person to obtain the information.

Advice to prospective donors

46 Providers must give advice to prospective donors and prospective guardians

(1) A provider must ensure that, before a person consents to donating a donated embryo or a donated cell to or through the provider, or to any service performed or arranged by the provider that involves a donated embryo or a donated cell, the person is told the things described in subsection (3).

(2) Before a provider performs or arranges the performance of a service that may result in the birth of a donor offspring, the provider must ensure that each prospective guardian of the donor offspring is told the things described in subsection (3).

(3) The things are as follows:

(a) which information about donors is obtained and kept by providers:

(b) how long the information is kept:

(c) why the information is obtained and kept:

(d) which part of the information is forwarded to, and kept indefinitely by, the Registrar-General:

(e) the rights given by this Act to donor offspring, the guardians of donor offspring, and other people to obtain information about donors:

(f) the rights given by this Act to donors and other people to obtain information about donor offspring:

(g) the importance of telling offspring about the nature of their conception:

(h) the availability of counselling.

(4) To avoid any doubt, this section does not limit any right or duty set out in the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996.

Information about donors

47 Providers must obtain and accept information about donors

(1) When a donor donates a donated embryo or a donated cell to or through a provider, the provider must ensure that the provider has obtained the following information about the donor or, as the case requires, about each donor:

(a) the donor's name:

(b) the donor's gender:

(c) the donor's address:

(d) the date, place, and country of the donor's birth:

(e) the donor's height:

(f) the colour of the donor's eyes and hair:

(g) the donor's ethnicity and any relevant cultural affiliation:

(h) in the case of a Māori donor, the donor's whanau, hapu, and iwi, to the extent that the donor is aware of those affiliations:

(i) any aspects, considered significant by the provider, of the medical history of—

(i) the donor; and

(ii) the donor's parents and grandparents; and

(iii) the donor's children (if any); and

(iv) the donor's siblings (if any):

(j) the donor's reasons for donating.

(2) The provider must accept any information that is offered by a donor that updates or corrects any of the information about the donor obtained under subsection (1).

48 Providers and Registrar-General must keep information about donors

(1) A provider must, in accordance with this section, keep all information about a donor obtained or accepted under section 47 in relation to any donated embryo or a donated cell.

(2) In any case where the use of the donated embryo or the donated cell results in the birth of a living donor offspring, the provider must give the information to the Registrar-General on the earlier of the following events:

(a) the expiry of 50 years after the date of that birth:

(b) the provider ceasing to be a provider in circumstances where there is no successor provider.

(3) The Registrar-General must keep indefinitely all information given under subsection (2).

(4) In any case where no living donor offspring is formed from the donated embryo or the donated cell, the provider may destroy the information on the occurrence of any of the following events:

(a) the termination (otherwise than by the birth of a living child) of a pregnancy resulting from the implantation of a donated embryo or an embryo formed from the donated cell:

(b) the destruction before implantation of a donated embryo or an embryo formed from the donated cell:

(c) the destruction of the donated cell.

49 Access by donors to information about them kept by providers

If asked to do so by a donor, a provider must—

(a) give the donor access to any information about the donor that the provider is keeping; and

(b) tell the donor whether the donor offspring has asked for information about the donor.

50 Access by donor offspring to information about donors kept by providers and Registrar-General

(1) If asked to do so by a donor offspring who is 18 years or older, the relevant agency must tell the offspring whether the relevant agency is keeping any information about the donor or, as the case requires, the donors and, if so, give the offspring access to it.

(2) If asked to do so by a guardian of a donor offspring who is under 18 years, the relevant agency must tell the guardian whether the relevant agency is keeping any information about the donor or, as the case requires, the donors and, if so, give the guardian access to it.

(3) If asked to do so by a donor offspring who is under 18 years, the relevant agency must tell the donor offspring whether the relevant agency is keeping any in-

formation about the donor or, as the case requires, the donors and, if so, give the donor offspring access to as much of that information as is not identifying information.

(4) The relevant agency may refuse to give a person access to information about a donor if satisfied, on reasonable grounds, that the disclosure is likely to endanger any person.

(5) The relevant agency that gives a person access to information under this section must advise the person of the desirability of counselling.

(6) The relevant agency must advise the donor concerned whenever a person is, under this section, given access to identifying information about the donor.

(7) Subsection (4) overrides subsections (1) to (3).

(8) In this section, **relevant agency** means a provider or the Registrar-General.

51 Restriction on access to information about donors

A provider or the Registrar-General must not allow any person access to information about a donor unless—

(a) authorised or required to do so by this Act; or

(b) required to do so by any other enactment or rule of law; or

(c) the information is relevant for the purposes of providing medical treatment or medical advice to a person, and is requested by a medical practitioner who produces a certificate signed by 2 medical practitioners that states that access to the information should be obtained for those purposes.

Information about donor offspring

52 Providers must keep track of donor offspring births

A provider must ensure that, at all times, there is in place an effective system for being notified of, or otherwise becoming aware of, the births of donor offspring.

53 Providers must notify Registrar-General of donor offspring births

(1) A provider who learns of the birth of a donor offspring must promptly—

(a) take all practicable steps to obtain, from any person who knows of the donor offspring, the following information:

(i) the date and place of the donor offspring's birth:

(ii) the donor offspring's sex:

(iii) the donor offspring's name; and

(b) give to the Registrar-General, on a form provided by the Registrar-General for the purpose,—

(i) the information that the provider has been able to obtain under paragraph (a); and

(ii) the names and addresses of the guardians of the donor offspring; and

(iii) the information specified in subsection (2) about the donor or, as the case requires, about each donor; and

(iv) the name of the provider.

(2) The information referred to in subsection (1)(b)(iii) is—

(a) the donor's name:

(b) the donor's address:

(c) the date, place, and country of the donor's birth.

54 Providers must give Registrar-General corrected information

If a provider who has given the Registrar-General information under section 53(1)(b) receives additional information that updates or corrects any of the information already given, the provider must promptly give the Registrar-General the updated or corrected information.

55 Registrar-General and providers must keep information about donor offspring

(1) The Registrar-General must keep indefinitely all information given under section 53 or section 54.

(2) A provider must keep all information obtained under section 53 or accepted under section 56 until the expiry of the specified period.

(3) In subsection (2), **specified period** means the period that starts with the date of the birth of the donor offspring concerned and expires on the earlier of the following:

(a) the expiry of 50 years after the date of that birth:

(b) the provider ceasing to be a provider in circumstances where there is no successor provider.

56 Providers to accept updated and corrected information about donor offspring

(1) If a donor offspring who is 18 years or older offers to a provider any information that updates or corrects any of the information already given under section 53(1)(b) about the donor offspring, the provider must accept the updated or corrected information.

(2) If a guardian of a donor offspring who is under 18 years offers to a provider any information that updates or corrects any of the information already given under section 53(1)(b) about the donor offspring, the provider must accept the updated or corrected information.

57 Access by donor offspring to information about them kept by providers or Registrar-General

(1) If asked to do so by a donor offspring who is 18 years or older, the relevant agency must—

(a) give the donor offspring access to any information about the donor offspring kept by the relevant agency:

(b) tell the donor offspring whether the donor has asked for information about the donor offspring.

(2) If asked to do so by the guardian of a donor offspring who is under 18 years, the relevant agency must—

(a) give the guardian access to any information about the donor offspring kept by the relevant agency:

(b) tell the guardian whether the donor has asked for information about the donor offspring.

(3) If asked to do so by a donor offspring who is under 18 years, the relevant agency must—

(a) give the offspring access to as much information about the donor offspring that is kept by the relevant agency and that is not identifying information about the donor:

(b) tell the offspring whether the donor has asked for information about the donor offspring.

(4) The relevant agency that gives a person access to information under this section must advise the person of the desirability of counselling.

(5) In this section, **relevant agency** means a provider or the Registrar-General.

58 Access to information about siblings of donor offspring

(1) A provider or the Registrar-General may tell a donor offspring (**donor offspring A**) and, if donor offspring A is under 18 years, the guardian of donor offspring A whether donor offspring A shares a donor with another donor offspring (**donor offspring B**) and, if that is the case and the condition specified in subsection (2) is met, give access to identifying information about donor offspring B—

(a) if donor offspring A is 18 years or older, to donor offspring A; or

(b) if donor offspring A is under 18 years, to the guardian of donor offspring A.

(2) The condition referred to in subsection (1) is that—

(a) if donor offspring B is 18 years or older, donor offspring B consents to the giving of access; or

(b) if donor offspring B is under 18 years, the guardian of donor offspring B consents to the giving of access.

(3) This section overrides sections 51 and 62.

59 Donor offspring 18 years or older may consent to disclosure of identifying information to donor

(1) A donor offspring who is 18 years or older may give a provider or the Registrar-General a written notice—

(a) consenting to the disclosure of identifying information about the donor offspring to any named donor; or

(b) cancelling a notice given to the provider or the Registrar-General by the donor offspring under paragraph (a).

(2) A provider or the Registrar-General must keep with any information about the donor offspring kept under this Act every notice given by the donor offspring under subsection (1).

(3) For the purposes of any provision of this Act, a provider or the Registrar-General has the consent of a donor offspring to the disclosure to a donor of identifying information about the donor offspring if, and only if,—

(a) the provider or the Registrar-General holds a notice in relation to that donor given by the donor offspring under subsection (1)(a); and

(b) that notice has not been cancelled under subsection (1)(b).

60 Access by donors to information about donor offspring kept by providers

(1) At the request of a donor, a provider must tell the donor whether, to the best of the provider's knowledge, there have been born any donor offspring formed from a donated embryo or a donated cell given to or through the provider and (if so) the sex of each donor offspring.

(2) If the provider has the donor offspring's consent to give the donor access to identifying information about the donor offspring, the provider must do so at the donor's request.

(3) The provider may refuse to disclose to the donor, or give the donor access to, information about the donor offspring if satisfied, on reasonable grounds, that to do so is likely to endanger any person.

(4) Subsection (3) overrides subsections (1) and (2).

61 Access by donors to information about donor offspring kept by Registrar-General

(1) At the request of a donor, the Registrar-General must tell the donor whether information given to the Registrar-General under section 53(1)(b) discloses that there have been any donor offspring born and, if so, the sex of each donor offspring.

(2) If the Registrar-General has the donor offspring's consent to give the donor access to identifying information about the donor offspring, the Registrar-General must do so at the donor's request.

(3) The Registrar-General may refuse to disclose to the donor, or give the donor access to, identifying information about the donor offspring if satisfied, on reasonable grounds, that to do so is likely to endanger any person.

(4) Subsection (3) overrides subsections (1) and (2).

62 Restriction on disclosure of information about donor offspring

A provider or the Registrar-General must not disclose any information about a donor offspring unless—

(a) authorised or required to do so by this Act; or

(b) required to do so by any other enactment or rule of law.

63 Voluntary register to be maintained by Registrar-General

(1) This section applies to—

(a) any donor who has, before the commencement of this Part, donated a donated embryo or a donated cell; and

(b) any donor offspring formed from a donated embryo or a donated cell that has been donated before that commencement.

(2) A donor to whom this section applies may give to the Registrar-General, on a form provided by the Registrar-General for the purpose, the following information:

(a) the donor's name:

(b) the donor's gender:

(c) the donor's address:

(d) the date, place, and country of the donor's birth:

(e) the donor's height:

(f) the colour of the donor's eyes and hair:

(g) the donor's ethnicity and any relevant cultural affiliation:

(h) in the case of a Maori donor, the donor's whanau, hapu, and iwi, to the extent that the donor is aware of those affiliations:

(i) any aspects, considered significant, of the medical history of—

(i) the donor; and

(ii) the donor's parents and grandparents; and

(iii) the donor's children (if any); and

(iv) the donor's siblings (if any):

(j) the name of the provider who received any donated embryo or donated cell from the donor:

(ja) the donor's reasons for donating:

(k) any number or other symbol used by the provider to identify the donor, if known.

(3) The following persons may give to the Registrar-General, on a form provided by the Registrar-General for the purpose, the information specified in subsection (4):

(a) a donor offspring who is 18 years or older and to whom this section applies:

(b) the guardian of a donor offspring, being a donor offspring who is under 18 years and to whom this section applies.

(4) The following information is the information referred to in subsection (3):

(a) the donor offspring's name:

(b) the date and place of the donor offspring's birth:

(c) the donor offspring's address:

(d) if the information is given by the guardian, the guardian's name and address:

(e) the donor offspring's gender:

(f) the donor offspring's ethnicity and any cultural affiliation:

(g) in the case of a Maori donor offspring, the donor offspring's whanau, hapu, and iwi, to the extent that those affiliations are known:

(h) any aspects, considered significant, of the medical history of the donor offspring:

(i) the name of the provider who received the donated embryo or donated cell concerned:

(j) any number or other symbol used by the provider to identify the donor offspring, if known.

(5) The Registrar-General must accept, on a form provided by the Registrar-General for the purpose, information—

(a) from a donor that updates information provided by the donor under subsection (2):

(b) from a donor offspring who is 18 years or older that updates information provided by the donor offspring or by the guardian of the donor offspring under subsection (3):

(c) from a guardian of a donor offspring who is under 18 years that updates information provided by the guardian under subsection (3).

(6) Any person who provides information under this section may also request the Registrar-General to restrict the access to the information in the manner specified in the request.

(7) A donor offspring about whom information has been given by a guardian under subsection (3) may, at any time after turning 18, do either or both of the following:

(a) request the Registrar-General to restrict the access to that information:

(b) vary or revoke any request made by the guardian under subsection (6).

(8) The Registrar-General may, subject to any request made under subsection (6), give each of the following persons access to information about a donor provided under subsection (2) and subsection (5):

(a) the donor:

(b) any person whom the Registrar-General believes on reasonable grounds to be—

(i) the offspring of the donor; and

(ii) 18 years or older:

(c) any person whom the Registrar-General believes on reasonable grounds to be the guardian of a person who is—

(i) the offspring of the donor; and

(ii) under 18 years.

(9) The Registrar-General may, subject to any request made under subsection (6) or subsection (7)(a), give each of the following persons access to information about a donor offspring provided under subsection (3) and subsection (5):

(a) the donor offspring, if he or she is 18 years or older:

(b) the guardian of the donor offspring, if the donor offspring is under 18 years:

(c) a person whom the Registrar-General believes on reasonable grounds to be the donor of the donor offspring:

(d) a person whom the Registrar-General believes on reasonable grounds to be a person—

(i) who shares a donor with the donor offspring; and

(ii) who is 18 years or older:

(e) a person whom the Registrar-General believes on reasonable grounds to be the guardian of a person—

(i) who shares a donor with the donor offspring; and

(ii) who is under 18 years.

(10) The Registrar-General may decline to give access to information under this section if satisfied, on reasonable grounds, that the disclosure is likely to endanger any person.

(11) The Registrar-General, when giving access to information under this section to a person, must advise the person of the desirability of counselling.

Section 63(2)(ja): inserted, on 20 September 2007, by section 5 of the Human Assisted Reproductive Technology Amendment Act 2007 (2007 No 63).

64 Application of this Part to section 63

The provisions of this Part, other than this section and sections 43, 45, 51, 62, 65, and 66, do not apply to section 63.

Court orders deeming certain donor offspring to be 18

65 Family Court may confer certain rights on donor offspring aged 16 or 17

(1) A donor offspring who is 16 years or older but under 18 years may apply to the Family Court for an order that, for the purposes of 1 or more of the provisions stated in subsection (2), the donor offspring is to be treated as a donor offspring who is 18 years old.

(2) The provisions are sections 50, 56, 57, 58, 59, and 63.

(3) If satisfied that it is in the best interests of the donor offspring to do so, a Family Court Judge may make an order that requires a named provider or the Registrar-General, or both, to treat, for the purposes of 1 or more of the provisions specified in subsection (2), the donor offspring as a donor offspring who is 18 years old.

(4) Rules may be made under section 16A of the Family Courts Act 1980 relating to the practice and procedure of Family Courts in proceedings under this Act.

Application of Privacy Act 1993

66 Application of Privacy Act 1993

(1) Any person may make a complaint to the Privacy Commissioner holding that office under section 12 of the Privacy Act 1993 if—

(a) the person is dissatisfied with any decision, action, or failure to act by a provider or the Registrar-General in relation to—

(i) a request under this Act for information or access to information; or

(ii) a request under this Act to accept updated or corrected information; or

(b) the person believes that information—

(i) has been obtained, kept, or disclosed otherwise than in accordance with this Act; or

(ii) has not been obtained, accepted, kept, or given, as required by this Act.

(2) Sections 40 and 41 of the Privacy Act 1993, so far as applicable and with any necessary modifications, apply to any request of a kind referred to in subsection (1)(a).

(3) Parts 8, 9, and 12 of the Privacy Act 1993, so far as applicable and with any necessary modifications, apply to the making of a complaint under subsection (1) as if the matter to which the complaint relates were an interference with privacy within the meaning of section 66 of that Act.

(4) Nothing in this section limits the jurisdiction of the Privacy Commissioner under the Privacy Act 1993 to investigate any complaint made under Part 8 of that Act.

Part 4
Enforcement and miscellaneous provisions

Enforcement

67 Matters to be ascertained by authorised persons

(1) Subsection (2) applies if an authorised person believes on reasonable grounds that there is a place (**the place**) in which—

(a) a gamete, an embryo or a foetus, or being that has been formed by an action described in Schedule 1 is located; or

(b) any assisted reproductive procedure is performed or any human reproductive research is conducted.

(2) The authorised person may at any reasonable time exercise any of the powers in section 68 reasonably necessary to ascertain all or any of the following matters:

(a) whether a gamete, an embryo or a foetus, or being that has been formed by an action described in Schedule 1 is, in fact, located in the place:

(b) whether any assisted reproductive procedure or any human reproductive research is, in fact, performed or conducted in the place:

(c) whether the performance of any assisted reproductive procedure or the conduct of any human reproductive research, or any storage of an *in vitro* human gamete or an *in vitro* human embryo and that is not, or is not part of, any assisted reproductive procedure or human reproductive research,—

(i) involves a contravention of any of sections 8 to 13:

(ii) involves a contravention of section 26:

(iii) complies with any regulations made under section 76(1) that regulate any kind of assisted reproductive procedure or human reproductive research:

(iv) complies with the requirement to obtain the approval of the ethics committee for the performance of an assisted reproductive procedure or the conduct of human reproductive research:

(v) complies with any conditions included in an approval given by an ethics committee.

Section 67(2)(c): amended, on 16 October 2010, by section 10 of the Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117).

68 Powers of authorised persons

(1) The powers referred to in section 67, in relation to any place, are the powers to—

(a) enter the place:

(b) inspect—

(i) any equipment or device believed on reasonable grounds to be used in the place in relation to any assisted reproductive procedure or human reproductive research:

(ii) any document in the place believed on reasonable grounds to relate to any assisted reproductive procedure or human reproductive research:

(c) *[Repealed]*

(d) search for and seize—

(i) any equipment or device referred to in paragraph (b)(i):

(ii) an *in vitro* gamete:

(iii) an *in vitro* embryo or an *in vitro* foetus:

(iv) a document or record (whether in electronic or other form):

(e) use any force for gaining entry to the place and for breaking open any article or thing that is in the place, being force that is reasonable in the circumstances and applied in a manner that is calculated to avoid adverse effects on any gametes, embryos, or foetuses:

(f) *[Repealed]*

(g) *[Repealed]*

(h) *[Repealed]*

(i) require any person appearing to be in charge of the place concerned (or any part of it) to answer any question the authorised person may reasonably ask for the purpose of exercising the powers of the authorised person.

(2) The provisions of Part 4 of the Search and Surveillance Act 2012 (except subpart 3 and sections 118 and 119) apply.

(3) *[Repealed]*

(4) *[Repealed]*

(5) This section does not limit the privilege against self-incrimination.

Section 68(1)(c): repealed, on 1 October 2012, by section 257(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 68(1)(f): repealed, on 1 October 2012, by section 257(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 68(1)(g): repealed, on 1 October 2012, by section 257(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 68(1)(h): repealed, on 1 October 2012, by section 257(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 68(2): replaced, on 1 October 2012, by section 257(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 68(3): repealed, on 1 October 2012, by section 257(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 68(4): repealed, on 1 October 2012, by section 257(3) of the Search and Surveillance Act 2012 (2012 No 24).

69 Entry of dwellinghouses

(1) An authorised person may not enter a dwellinghouse under section 68(1)(a), except—

(a) with the consent of an occupier of the dwellinghouse; or

(b) with the authority of a search warrant issued under subsection (2).

(2) An issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) may, on an application made in the manner provided in subpart 3 of Part 4 of that Act, issue a search warrant in respect of a dwellinghouse if satisfied that there are reasonable grounds to believe that in that house—

(a) an offence against this Act has been or is being committed; or

(b) there is any gamete, any kind of embryo or foetus, or being that is or may be evidence of the commission of an offence against this Act.

(3) The search warrant authorises the authorised person to whom it is directed to exercise in respect of the dwellinghouse all or any of the powers described in section 68, and the provisions of that section apply to the execution of the warrant.

(4) Subject to section 72, the provisions of Part 4 of the Search and Surveillance Act 2012 (except sections 118 and 119) apply.

(5) *[Repealed]*

Section 69(2): amended, on 1 October 2012, by section 257(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 69(4): replaced, on 1 October 2012, by section 257(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 69(5): repealed, on 1 October 2012, by section 257(5) of the Search and Surveillance Act 2012 (2012 No 24).

70 Identification of authorised person

[Repealed]

Section 70: repealed, on 1 October 2012, by section 257(6) of the Search and Surveillance Act 2012 (2012 No 24).

71 Notice requirements when place entered

[Repealed]

Section 71: repealed, on 1 October 2012, by section 257(6) of the Search and Surveillance Act 2012 (2012 No 24).

72 Disposal of property seized

Subpart 6 of Part 4 of the Search and Surveillance Act 2012 applies to any property seized by an authorised person under section 68(1)(d), subject to the following provisions:

(a) *[Repealed]*

(b) *[Repealed]*

(c) *[Repealed]*

(d) if any person is convicted of an offence to which the item relates, the court may, if it thinks fit, order that the item be forfeited to the Crown or disposed of as the court directs at the expense of the convicted person, and may order that the person pay any reasonable costs incurred by the authorised person or the Commissioner of Police in retaining the item.

Section 72: amended, on 1 October 2012, by section 257(7)(a) of the Search and Surveillance Act 2012 (2012 No 24).

Section 72(a): repealed, on 1 October 2012, by section 257(7)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 72(b): repealed, on 1 October 2012, by section 257(7)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 72(c): repealed, on 1 October 2012, by section 257(7)(b) of the Search and Surveillance Act 2012 (2012 No 24).

73 Detection of import and export offences

(1) A Customs officer may detain any matter or item that he or she finds in the course of exercising any power of search or examination under the Customs and Excise Act 1996, if he or she believes on reasonable grounds that the matter or item is—

(a) a gamete, an embryo, or a foetus, or being that is being imported or exported in contravention of section 8(2) or section 9(2); or

(b) any equipment or device used in relation to that import or export.

(2) If a Customs officer detains any matter or item under subsection (1), he or she must, as soon as practicable, deliver that matter or item into the custody of an authorised person.

(3) Once a matter or item has been delivered under subsection (2),—

(a) responsibility for that matter or item passes from the Customs officer to the authorised person; and

(b) section 72 applies to that matter or item as if it had been seized under section 68(1)(d).

(4) The following sections of the Customs and Excise Act 1996 apply, with any necessary modifications, to any gamete, embryo, foetus, or being that is imported or exported in contravention of section 8(2) or section 9(2) as if the gamete, embryo, foetus, or being and any equipment or device used in relation to that import or export were a prohibited import or, as the case requires, a prohibited export within the meaning of that Act:

(a) section 145 (questioning persons about goods and debt):

(b) section 147 (evidence of identity and entitlement to travel):

(c) section 148 (detention of persons questioned about goods or debt):

(d) section 160 (requisition to produce documents):

(e) section 161 (further powers in relation to documents).

(5) If a Customs officer requests an authorised person to assist the Customs officer in the exercise of a power under this section or any of the sections applied by subsection (4), the authorised person may exercise the relevant power under the direction of the Customs officer.

74 Exclusion of liability of authorised persons, Customs officers, and assistants

No authorised person, or a person requested to assist an authorised person, or a Customs officer who does, or omits to do, an act in pursuance of a function or power conferred on that person by this Act or by the Customs and Excise Act 1996 as applied by section 73 is under civil or criminal liability for that act or omission unless the person acts, or omits to act, in bad faith or without reasonable cause.

75 Offences related to inspections and searches

(1) Every person commits an offence who—

(a) intentionally obstructs, hinders, or resists an authorised person, or any person lawfully assisting an authorised person, in the exercise of the authorised person's powers under this Act; or

(b) intentionally refuses or fails to comply with any lawful requirements of an authorised person under this Act.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $20,000.

Section 75(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Miscellaneous provisions

76 Regulations

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) providing for the circumstances and the manner in which, and the conditions subject to which, any kind of assisted reproductive procedure may be performed or any kind of human reproductive research may be conducted, including, without limitation:

(i) prescribing requirements for informed consent in relation to the performance of assisted reproductive procedures or the conduct of human reproductive research, not being requirements that are inconsistent with this Act or the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996:

(ii) providing for the use or destruction of *in vitro* gametes or *in vitro* embryos, in particular, without limitation, in cases where one party from whom such a gamete or embryo has been obtained or formed withdraws his or her consent to any course of action:

(iii) prescribing requirements or conditions for, or imposing restrictions on, the import into, or the export from, New Zealand of *in vitro* gametes or *in vitro* embryos, including, without limitation, requirements for the giving of informed consent (not being requirements that are inconsistent with this Act or the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996) by persons from whom gametes are obtained overseas:

(iv) requiring any person approved under section 20 as the person responsible for an activity to keep records of information of a kind provided for by the regulations (not being identifying information) in relation to that activity, and requiring that person to disclose, in the manner provided for by the regulations, that information to the advisory committee or any duly authorised representative of that committee or the Director-General of Health:

(v) requiring persons who perform, or who arrange for the performance of, established procedures or any class of health practitioner (within the meaning of the Health Practitioners Competence Assurance Act 2003) to keep records of information of a kind provided for by the regulations (not being identifying information) in relation to established procedures, and requiring those persons and health practitioners to disclose, in the manner provided for by the regulations, that information to the advisory committee or to any

duly authorised representative of that committee or to the Director-General of Health:

(b) prescribing offences in respect of the contravention of, or non-compliance with, any regulations made under paragraph (a) and the amounts of fines that may be imposed in respect of those offences, which fines must not exceed $20,000:

(c) prescribing the fees to be paid in relation to the taking of any action under Part 3 by the Registrar-General:

(d) providing for any other matters that are contemplated by, or necessary for giving full effect to, this Act, and for its due administration.

(1A) Regulations under subsection (1)(a)(i) may prescribe requirements (not inconsistent with this Act, the Health and Disability Commissioner (Code of Health and Disability Services Consumers' Rights) Regulations 1996, or the Human Tissue Act 2008) for informed consent for collection of gametes, embryos, or both—

(a) from dead individuals; and

(b) in connection with, or for the purposes of, the performance of assisted reproductive procedures, the conduct of human reproductive research, or any other lawful use or uses of the gametes, embryos, or both.

(1B) Subsection (1A) does not limit subsection (1)(a)(i) or the power under section 6 to declare procedures or treatments not to be established procedures if they involve the use of gametes or embryos collected from a person, who has since died, who did not consent to the specific use of the gametes or embryos before that person's death.

(2) Regulations under subsection (1)(a) may be made only on the recommendation of the Minister after the Minister has consulted and received advice from the advisory committee and consulted any other person the Minister thinks fit to consult.

Section 76(1A): inserted, on 1 November 2008, by section 91(2) of the Human Tissue Act 2008 (2008 No 28).

Section 76(1B): inserted, on 1 November 2008, by section 91(2) of the Human Tissue Act 2008 (2008 No 28).

77 Liability of employers, principals, and directors

(1) An act done by a person as the employee (the **employee**) of another person (the **employer**) is, for the purposes of an offence against this Act, to be treated as done by the employer as well as by the employee if—

(a) the employer approved of the act; or

(b) the employer knew that the act was to be done or was being done and failed to take all reasonable steps to prevent it.

(2) An act done by a person as the agent (the **agent**) of another person (the **principal**) is, for the purposes of an offence against this Act, to be treated as done by the principal as well as by the agent if—

(a) the principal approved of the act; or

(b) the principal knew that the act was to be done or was being done and failed to take all reasonable steps to prevent it.

(3) Whenever a body corporate is convicted of an offence against this Act, a director of the body corporate is to be treated as having committed the same offence if—

(a) the director approved of the act that constituted the offence; or

(b) the director knew the offence was to be or was being committed and failed to take all reasonable steps to prevent it.

(4) In subsection (3), **director** includes a person who is concerned in the management of a body corporate.

78 Fees

The Registrar-General may refuse to take any action under this Act for which a fee is prescribed unless the fee has been paid.

Transitional provisions

79 Director-General of Health to be advisory committee pending its establishment

[Repealed]

Section 79: repealed, on 21 August 2005, by section 79(2).

80 Health and Disability Services (Safety) Act 2001 applies to fertility services

(1) For the purposes of the Health and Disability Services (Safety) Act 2001, fertility services are deemed to be included in the definition of specified health or disability services in section 4(1) of that Act.

(2) In this section and in sections 81 and 82, **fertility services** means services performed for the purpose of assisting human reproduction that involve—

(a) the creation of an *in vitro* human embryo; or

(b) the storage, manipulation, or use of an *in vitro* human gamete or an *in vitro* human embryo; or

(c) the use of cells derived from an *in vitro* human embryo; or

(d) the implantation in a human being of human gametes or human embryos.

(3) Subsection (1) overrides section 7 of the Health and Disability Services (Safety) Act 2001.

81 Compliance with Health and Disability Services (Safety) Act 2001 by providers of fertility services during interim period

(1) During the interim period, the provision of fertility services by a person is deemed to comply with section 9 of the Health and Disability Services (Safety) Act 2001 if the person who provides those services—

(a) is certified by the Director-General of Health; and

(b) has been the subject of an audit report completed, for the purposes of the person's accreditation, by an organisation approved under subsection (4); and

(c) has, within 5 days after the receipt of the most recent report of the kind described in paragraph (b), given the Director-General a copy of the report; and

(d) complies with any standards approved by the Director-General of Health under section 82.

(2) For the purposes of subsection (1)(a), a person who is accredited by an organisation approved under subsection (4) is deemed to be certified for the purposes of section 26 of the Health and Disability Services (Safety) Act 2001.

(3) The provision of fertility services is not in compliance with section 9 of the Health and Disability Services (Safety) Act 2001 unless it is deemed to comply with that section by subsection (1).

(4) The Director-General may approve any organisation to act as auditing agency to accredit a person for the purposes of the interim period if the Director-General is satisfied that the organisation has the expertise and experience to carry out that function.

(5) An organisation approved under subsection (4) may be a body corporate or an association of persons, whether or not that body is incorporated, or any of those persons reside, in New Zealand or overseas.

(6) In this section and in section 82, **interim period** means the period that commences on the day after the date on which this Act receives the Royal assent and ends immediately before the commencement of the first notice under section 13 of the Health and Disability Services (Safety) Act 2001 that approves standards for fertility services.

82 Approval of standards during interim period

(1) During the interim period, the Director-General of Health may,—

(a) by written notice describing by name the standards concerned, approve standards for providing fertility services; and

(b) amend or revoke such a notice.

(2) A notice, or the amendment or revocation of a notice, comes into force on the 28th day after the day on which it is published in the *Gazette*.

(3) A notice and any amendment of a notice, unless sooner revoked, expires at the end of the interim period.

83 Provisions to be treated as guidelines in interim period

(1) In this section, **interim period** means the period that commences on the day after the date on which this Act receives the Royal assent and ends on the third anniversary of that day.

(2) During the interim period, the Minister may—

(a) issue a requirement requiring the ethics committee to treat specified provisions of any document as guidelines issued by the advisory committee for the purposes of this Act; and

(b) amend or revoke a requirement of that kind.

(3) A requirement, or the amendment or revocation of a requirement, comes into force on the 28th day after the day on which it is published in the *Gazette*.

(4) A requirement and any amendment of a requirement, unless sooner revoked, expires at the end of the interim period.

(5) The ethics committee must give effect to the current form of every requirement.

(6) Every requirement and any amendment or revocation of the requirement must be published in the *Gazette*, and the publication of a requirement or an amendment of a requirement must identify the provisions that are to be treated as guidelines but need not set them out.

84 Availability of interim standards and guidelines

(1) This section applies to the following documents:

(a) current notices issued under section 82:

(b) standards for the time being approved under section 82:

(c) current requirements issued under section 83:

(d) provisions required to be treated as guidelines under section 83.

(2) The Director-General of Health must ensure that there are—

(a) sufficient copies of the documents available for public inspection, free of charge, at the Head Office of the Ministry of Health during normal office hours; and

(b) sufficient copies of the documents available either for distribution free of charge or for purchase at a reasonable price during normal office hours at places designated by the Director-General of Health.

Amendments to other enactments

85 Amendment to Customs and Excise Act 1996

Amendment(s) incorporated in the Act(s).

86 Amendment to Medicines Act 1981

(1), (2) *Amendment(s) incorporated in the Act(s)*.

(3) Any application made, before the commencement of this section, under section 96G of the Medicines Act 1981 for the grant of an authorisation in relation to any germ-cell genetic procedure or any cloning procedure must be treated as if this Act had not been enacted; and an authorisation under section 96C or section 96D of that Act granted in respect of such an application has effect as if this Act had not been enacted.

87 Amendment to Summary Proceedings Act 1957

Amendment(s) incorporated in the Act(s).

Schedule 1
Prohibited actions

s 8

1 Artificially form, for reproductive purposes, a cloned embryo. For the purposes of this item, a cloned embryo is not formed by splitting, on 1 or more occasions, an embryo that has been formed by the fusion of gametes.

2 Artificially form, for reproductive purposes, a hybrid embryo.

3 Implant into a human being a cloned embryo.

4 Implant into a human being an animal gamete or embryo.

5 Implant into a human being a hybrid embryo.

6 Implant into an animal a human gamete or human embryo.

7 Implant into an animal a hybrid embryo.

8 Implant into a human being a genetically modified gamete, human embryo, or hybrid embryo.

9 Implant into a human being gametes derived from a foetus, or an embryo that has been formed from a gamete or gametes derived from a foetus.

Schedule 2
Form of search warrant

[Repealed]

s 69(2)

Schedule 2: repealed, on 1 October 2012, by section 257(6) of the Search and Surveillance Act 2012 (2012 No 24).

Contents

Notes

1 General

This is a reprint of the Human Assisted Reproductive Technology Act 2004. The reprint incorporates all the amendments to the Act as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted

enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as "of this section" and "of this Act")
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)

- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Search and Surveillance Act 2012 (2012 No 24): section 257

Criminal Procedure Act 2011 (2011 No 81): section 413

Human Assisted Reproductive Technology (Storage) Amendment Act 2010 (2010 No 117)

Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47

Human Tissue Act 2008 (2008 No 28): section 91(2)

Human Assisted Reproductive Technology Amendment Act 2007 (2007 No 63)

Human Assisted Reproductive Technology Act 2004 (2004 No 92): section 79

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