

Reprint  
as at 17 May 2021



# Human Assisted Reproductive Technology Order 2005

(SR 2005/181)

Silvia Cartwright, Governor-General

## Order in Council

At Wellington this 27th day of June 2005

Present:

Her Excellency the Governor-General in Council

Pursuant to section 6 of the Human Assisted Reproductive Technology Act 2004, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This order is administered by the Ministry of Health.**

## Order

### 1 Title

This order is the Human Assisted Reproductive Technology Order 2005.

### 2 Commencement

This order comes into force on 22 August 2005.

### 3 Interpretation

In this order, unless the context otherwise requires,—

**Act** means the Human Assisted Reproductive Technology Act 2004

**brother**, in relation to a person, means a brother of full-blood or half-blood, a stepbrother, or a brother by adoption

**cousin**, in relation to a person, means a cousin of any degree

**cryopreserved ovarian tissue** means ovarian tissue that has undergone the established procedure of ovarian tissue cryopreservation

**donated eggs**—

- (a) means eggs that are donated for reproductive purposes; but
- (b) does not include eggs contributed by the spouse or partner of the patient

**donated sperm**—

- (a) means sperm that is donated for reproductive purposes; but
- (b) does not include sperm contributed by the spouse or partner of the patient

**family member**, in relation to a person, means—

- (a) any other person who is or has been related to the person by blood, marriage, civil union, de facto relationship, or adoption:
- (b) any other person who is a member of the person's whānau or other culturally recognised family group

**partner**, in relation to a person, means—

- (a) the person's civil union partner; or
- (b) the person's de facto partner

**patient**, in relation to donated eggs or donated sperm, means the person who is the subject of the procedure in which the eggs or sperm are used

**sister**, in relation to a person, means a sister of full-blood or half-blood, a step-sister, or a sister by adoption.

Clause 3 **cryopreserved ovarian tissue**: inserted, on 17 May 2021, by clause 4 of the Human Assisted Reproductive Technology Amendment Order 2021 (LI 2021/67).

#### **4 Purpose**

The purpose of this order is—

- (a) to declare certain medical procedures to be established procedures under section 6 of the Act for the purposes of the definition of assisted reproductive procedure in section 5 of the Act; and
- (b) in so doing, to specify those medical procedures that do not require the approval of the ethics committee under the Act.

#### **5 Established procedures**

Each medical procedure described in the Schedule is an established procedure.

## **Schedule Established procedures**

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### **Part 1 Descriptions of established procedures**

#### **Artificial insemination**

A procedure in which sperm is artificially introduced into a woman's body and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) collection of sperm:
- (b) preparation of sperm:
- (c) placing prepared sperm into the cervix, uterus, or Fallopian tubes:
- (d) alteration of hormonal control of the ovaries and uterus using drugs:
- (e) stimulation of multiple follicle development using drugs:
- (f) triggering ovulation using drugs.

#### **Assisted hatching**

A procedure that involves thinning or making a hole in the zona pellucida of an embryo by mechanical, chemical, or laser means.

#### **Blastocyst culture**

A procedure in which the culture of an embryo or embryos outside the body is prolonged so that embryos might reach the stage of blastocyst.

#### **Collection of eggs for purposes of donation**

A procedure in which eggs are collected for the purposes of donation and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) recruitment of an egg donor, either by the clinic or the egg recipient:

- (b) alteration of hormonal control of the ovaries and uterus using drugs:
- (c) stimulation of multiple follicle development using drugs:
- (d) triggering ovulation using drugs:
- (e) the egg donor undertaking procedures that may be undertaken for, or in connection with, in vitro fertilisation up to and including egg collection:
- (f) discarding of eggs.

#### **Collection of sperm for purposes of donation**

A procedure that involves either or both of the following:

- (a) recruitment of a sperm donor, either by the clinic or the sperm recipient:
- (b) collection and preparation of sperm.

#### **Egg cryopreservation**

A procedure in which eggs are maintained as potentially viable over a period of time by freezing them and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) collection of eggs:
- (b) in vitro culture of eggs:
- (c) preparation of eggs for freezing:
- (d) freezing of eggs:
- (e) storage of eggs at low temperatures:
- (f) thawing of eggs:
- (g) alteration of hormonal control of the ovaries and uterus using drugs:
- (h) stimulation of multiple follicle development using drugs:
- (i) triggering ovulation using drugs:
- (j) discarding of eggs.

#### **Embryo cryopreservation**

A procedure in which embryos are maintained as potentially viable over a period of time by freezing them and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) preparation of embryos for freezing:
- (b) freezing of embryos:
- (c) storage of embryos at low temperatures:
- (d) thawing of embryos:
- (e) in vitro culture of embryos:
- (f) inspection and grading of embryos:
- (g) alteration of hormonal control of the ovaries and uterus using drugs:

- (h) stimulation of multiple follicle development using drugs:
- (i) triggering ovulation using drugs:
- (j) embryo transfer into the uterus or Fallopian tubes:
- (k) discarding of embryos.

**Gamete intrafallopian transfer (GIFT)**

A procedure in which eggs are combined with sperm outside the body and transferred into the Fallopian tubes of a woman and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) collection of eggs:
- (b) preparation of sperm:
- (c) in vitro culture of eggs:
- (d) transfer of sperm and eggs into the Fallopian tubes:
- (e) any other steps of in vitro fertilisation using sperm and eggs not transferred to the Fallopian tubes.

**Intracytoplasmic sperm injection (ICSI)**

A procedure that may involve collection and preparation of sperm in which sperm is injected into an egg outside the body.

**In vitro fertilisation (IVF)**

A procedure in which the eggs of a woman are combined with the sperm of a man outside the body and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) collection of eggs:
- (b) collection and preparation of sperm:
- (c) in vitro culture of eggs:
- (d) in vitro culture of sperm:
- (e) addition of sperm to eggs:
- (f) in vitro culture of embryos:
- (g) inspection and grading of embryos:
- (h) embryo transfer into the uterus or Fallopian tubes:
- (i) alteration of hormonal control of the ovaries and uterus using drugs:
- (j) stimulation of multiple follicle development using drugs:
- (k) triggering ovulation using drugs:
- (l) discarding of eggs and embryos.

**Ovarian tissue cryopreservation**

A procedure in which ovarian tissue is collected and maintained as potentially viable over a period of time by freezing it and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) collection of ovarian tissue:
- (b) preparation of the ovarian tissue for freezing:
- (c) freezing of ovarian tissue:
- (d) storage of ovarian tissue at low temperatures:
- (e) thawing of ovarian tissue:
- (f) discarding of ovarian tissue.

**Pre-implantation genetic diagnosis (PGD)**

A procedure for genetically testing embryos for specific genetic conditions or chromosomal abnormalities prior to embryo transfer and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) biopsy of embryos to remove 1 or more cells:
- (b) transportation of the cells to an approved laboratory:
- (c) analysis of the genetic or chromosomal constitution of cells obtained by biopsy:
- (d) selection of embryos for transfer on the basis of the results from analysis.

**Re-implantation of cryopreserved ovarian tissue into woman from whom it was excised**

A procedure in which cryopreserved ovarian tissue is re-implanted into the woman from whom the ovarian tissue was excised.

**Sperm cryopreservation**

A procedure in which sperm are maintained as potentially viable over a period of time by freezing them and that includes any of the following undertaken for, or in connection with, that procedure:

- (a) collection of sperm:
- (b) freezing of sperm:
- (c) storage of sperm at low temperatures:
- (d) thawing of sperm:
- (e) discarding of stored sperm.

Schedule item **Re-implantation of cryopreserved ovarian tissue into woman from whom it was excised**: inserted, on 17 May 2021, by clause 5(1) of the Human Assisted Reproductive Technology Amendment Order 2021 (LI 2021/67).

## Part 2

### Provisions applicable to procedures generally

- 1 Despite the descriptions of established procedures in Part 1, a procedure is not an established procedure if it involves the use of donated eggs or donated sperm, and—
- (a) the donor is a family member of the patient; or
  - (b) the donated eggs or donated sperm are used in conjunction with any other donated gametes.

Schedule clause 1: substituted, on 10 July 2009, by clause 4 of the Human Assisted Reproductive Technology Amendment Order 2009 (SR 2009/195).

- 2 For the purpose of clause 1(a), a donation of eggs or sperm is not regarded as being a donation made by a family member if,—
- (a) in the case of donated eggs, the donor is a sister or cousin of the patient;
  - (b) in the case of donated sperm, the donor is a brother or cousin of the patient's spouse or partner;
  - (c) in the case of a procedure that involves the use of eggs donated by the patient's partner and also involves donated sperm, the donor of the sperm is a brother or cousin of the patient.

Schedule clause 2: substituted, on 10 July 2009, by clause 4 of the Human Assisted Reproductive Technology Amendment Order 2009 (SR 2009/195).

- 2A Despite the descriptions of established procedures in Part 1, a procedure is not an established procedure if it involves the use of donated eggs or donated sperm, and—
- (a) the donor is a family member of the patient; and
  - (b) at the time of the donation, the donor or the patient is under 20.

Schedule clause 2A: inserted, on 10 July 2009, by clause 4 of the Human Assisted Reproductive Technology Amendment Order 2009 (SR 2009/195).

- 3 *[Revoked]*

Schedule clause 3: revoked, on 17 May 2021, by clause 5(2) of the Human Assisted Reproductive Technology Amendment Order 2021 (LI 2021/67).

- 4 *[Revoked]*

Schedule clause 4: revoked, on 25 March 2011, by clause 4 of the Human Assisted Reproductive Technology Amendment Order 2011 (SR 2011/53).

- 5 Despite the descriptions of established procedures in Part 1, a procedure is not an established procedure if it involves the use of sperm that was collected from a person, who has since died, who did not give consent to the specific use of the sperm before that person's death.

- 6 Despite the descriptions of established procedures in Part 1, a procedure is not an established procedure if it involves the use of pre-implantation genetic diagnosis for purposes other than the prevention or treatment of a genetic disorder or disease by—
- (a) diagnosis of familial single-gene disorders where—
    - (i) the disorder has been identified in the family or whānau; and
    - (ii) there is a 25% or greater risk of an affected pregnancy; and
    - (iii) there is evidence that the future individual may be seriously impaired as a result of the disorder; or
  - (b) sex determination where—
    - (i) a familial sex-linked disorder has been identified in the family or whānau; and
    - (ii) there is a 25% or greater risk of an affected pregnancy; and
    - (iii) no specific test for the particular mutation that causes the disorder is available; and
    - (iv) there is evidence that the future individual may be seriously impaired as a result of the disorder; or
  - (c) diagnosis of familial chromosomal disorders where—
    - (i) the disorder has been identified in the family or whānau; and
    - (ii) there is a 25% or greater risk of an affected pregnancy; and
    - (iii) there is evidence that the future individual may be seriously impaired as a result of the disorder; or
  - (d) diagnosis of non-familial chromosomal disorders (aneuploidy testing) where—
    - (i) the woman is of advanced reproductive age; or
    - (ii) the woman has had recurrent implantation failure or recurrent miscarriage.
- 7 Despite the descriptions of established procedures in Part 1, a procedure is not an established procedure if it involves the use of eggs collected from a person who is dead when the eggs are collected or who dies before the procedure is carried out.

Schedule clause 7: added, on 10 July 2009, by clause 4 of the Human Assisted Reproductive Technology Amendment Order 2009 (SR 2009/195).

Diane Morcom,  
Clerk of the Executive Council.

Reprinted as at  
17 May 2021

**Human Assisted Reproductive Technology Order 2005**

Schedule

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Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 30 June 2005.

## Reprints notes

### **1** *General*

This is a reprint of the Human Assisted Reproductive Technology Order 2005 that incorporates all the amendments to that order as at the date of the last amendment to it.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Human Assisted Reproductive Technology Amendment Order 2021 (LI 2021/67)

Human Assisted Reproductive Technology Amendment Order 2011 (SR 2011/53)

Human Assisted Reproductive Technology Amendment Order 2009 (SR 2009/195)