



Human Assisted Reproductive Technology (Storage) Amendment Act 2010

Public Act 2010 No 117
Date of assent 15 October 2010
Commencement see section 2

Contents

	Page
1 Title	2
2 Commencement	2
Part 1	
Preliminary provisions	
3 Principal Act amended	2
4 Purpose of this Act	2
Part 2	
Amendments to principal Act	
5 New section 10 substituted	3
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)	3
6 New sections 10A to 10D inserted	4
10A Ethics committee may approve extensions	4
10B Giving of approval under section 10A	5
10C Changing of approval under section 10A	5
10D Cancellation of approval under section 10A	6
7 Ethics committee may cancel approval	8
8 Functions of ethics committee	8
9 Functions of advisory committee	8

10 Matters to be ascertained by authorised persons 8

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Human Assisted Reproductive Technology (Storage) Amendment Act 2010.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Preliminary provisions**

3 Principal Act amended

This Act amends the Human Assisted Reproductive Technology Act 2004.

4 Purpose of this Act

The purpose of this Act is to ensure that,—

- (a) for the purpose only of the prohibition against storing a human in vitro gamete or a human in vitro embryo for longer than the applicable period, any storage of the gamete or embryo before the commencement, on 22 November 2004, of that prohibition must be disregarded:
- (b) that prohibition is amended so that it becomes a prohibition against storing for longer than 6 months a human in vitro gamete or a human in vitro embryo that has been stored for the applicable period:
- (c) for the purpose only of that prohibition, the period for which a human in vitro embryo has been stored is treated as including any storage after that commencement of gametes used in the creation of the embryo:
- (d) that prohibition is otherwise amended to make clearer its terms and operation:

- (e) the advisory committee may issue guidelines and give advice to the ethics committee on the matters to be taken into account in considering whether to give, change, or cancel an approval for an extension to the applicable period for the storage of a human in vitro gamete or a human in vitro embryo:
- (f) the giving, changing, or cancellation of an approval for an extension to the applicable period for the storage of a human in vitro gamete or a human in vitro embryo may occur only if the giving, changing, or cancellation of an approval of that kind is covered in relevant guidelines issued, and the ethics committee is satisfied that the giving, changing, or cancellation of the approval is consistent with relevant guidelines issued and relevant advice given, by the advisory committee:
- (g) clear procedures are specified for giving, changing, and cancelling an approval of that kind.

Part 2

Amendments to principal Act

5 New section 10 substituted

Section 10 is repealed, as from its commencement, on 22 November 2004, and the following section is, as from that commencement, substituted:

“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 1 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 summary conviction to a fine not exceeding \$20,000.”

6 New sections 10A to 10D inserted

The following sections are inserted after section 10:

“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 1 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.

“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.

“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.

“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.”

7 Ethics committee may cancel approval

Section 22(1)(b)(i) is amended by omitting “relevant guidelines and advice issued” and substituting “relevant guidelines issued or relevant advice given”.

8 Functions of ethics committee

Section 28(1) is amended by inserting the following paragraph before paragraph (a):

“(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:”.

9 Functions of advisory committee

(1) Section 35(1) is amended by inserting the following paragraph before paragraph (a):

“(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:”.

(2) Section 35(1)(a) is amended by inserting “give” before “advice” where it first appears.

10 Matters to be ascertained by authorised persons

Section 67(2)(c) is amended by inserting “, 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,” after “human reproductive research” where it first appears.

Legislative history

24 November 2009	Introduction (Bill 88–1)
8 December 2009	First reading and referral to Health Committee
8 June 2010	Reported from Health Committee (Bill 88–2)
7 September 2010	Second reading
16 September 2010	Committee of the whole House
13 October 2010	Third reading
15 October 2010	Royal assent

This Act is administered by the Ministry of Justice.
