

ASSISTED HUMAN REPRODUCTION BILL

EXPLANATORY NOTE

General Policy Statement

The Bill implements the Government's decisions in the area of assisted human reproduction.

Background

The Ministerial Committee on Assisted Reproductive Technologies (MCART) reported to the Minister of Justice in July 1994. MCART's report reviewed assisted human reproductive practice in New Zealand, outlined overseas developments, discussed specific options, and recommended options for the future.

In May 1995 the Government directed an officials' committee chaired by the Ministry of Justice to consider the recommendations in MCART's report. To assist with its task and to facilitate consultation with the community, the officials' committee prepared a consultation document *Assisted Human Reproduction - A Commentary on the Report of the Ministerial Committee on Assisted Reproductive Technologies*. A number of submissions on the consultation document were received and considered by the officials' committee.

The Government subsequently made a number of decisions on the recommendations contained in the MCART report. This Bill implements those of the Government's decisions which require legislative action.

Major Reforms

Certain fundamentally unethical activities are to be prohibited. In particular, the Bill prohibits the cloning of humans, the fusing of animal and human gametes, the implantation of animal or human embryos into the opposite species, and the use of human cells to develop procedures or techniques for undertaking any of those activities. The Bill also prohibits the supply of human gametes and embryos for valuable consideration.

The National Ethics Committee on Assisted Human Reproduction (NECAHR) is to be put on a statutory basis in the Bill. NECAHR is currently established by the Minister of Health and remains accountable to the Minister under section 46 of the Health and Disability Services Act 1993. The Bill provides for the appointment and functions of NECAHR and imposes some procedural requirements. In particular, where the Committee considers an assisted human reproductive proposal that is new in New Zealand it must refer that proposal to the Minister of

Health. NECAHR may not make a decision on such a proposal until either the Minister of Health conveys the views of the Government to it, or 2 months have expired. In the event of NECAHR's approving any such proposal contrary to the views of the Government, the approval does not take effect for 6 months. This 6 month period is intended to give the Government time in which to legislate on the issue under consideration.

The Bill also provides for an information scheme intended to promote a policy of openness with respect to children born as a result of procedures involving donated gametes. The scheme implemented by the Bill contains the following key features:

- Donors of gametes and recipients of assisted human reproductive services will be made aware as a precondition to donation and the receipt of services that information will be collected and retained so that children born as a result of donated materials ("donor children") will have access to their genetic origins.
- Providers of assisted human reproductive services will be required to collect certain information from donors and about donor children.
- Providers will be required to retain this information for a period of 50 years unless their business ceases to continue in some form.
- Where a donor child is born, providers will forward specified core information to the Registrar-General.
- The information held by the Registrar-General will be held indefinitely and accessed via a central register.
- Donor children will be entitled to have access to identifying donor information held by providers and the Registrar-General upon turning 18.
- Donors will be entitled to find out if a donation has resulted in a birth, but will not have access to identifying information about a donor child until the child turns 25, unless the child expressly consents to donor access after turning 18..
- Donor children and donors will have access to non-identifying information about each other prior to the donor child's attaining the age of 18 years.
- The Privacy Commissioner will have jurisdiction to deal with complaints relating to such matters as denial of access or wrongful disclosure of personal information.

Clause by Clause Analysis

Clause 1 relates to the Bill's Short Title and commencement. *Part 3*, which relates to information about donors and children conceived from donated gametes, will come into force on a day appointed by Order in Council. The rest of the Bill comes into force on assent.

Clause 2 defines certain terms used in the Bill.

The definition of the term "provider" is important. A provider is a person in the business of receiving or storing donated gametes, or providing or arranging procedures involving the use of donated gametes. A provider can be a non-profit organisation.

Clause 3 provides that the Bill binds the Crown.

PART 1

PROHIBITION OF CERTAIN ACTIONS RELATING TO HUMAN REPRODUCTION

Clause 4 creates new criminal offences relating to human cloning, the fusion of human and animal gametes, the implantation of human embryos in animals, and the implantation of animal embryos in humans. It will also be an offence to use a

human cell or part of a human cell to develop any procedure or technique for doing any of those things.

The offences are triable on indictment; and the penalty is imprisonment for up to 5 years or a fine of up to \$50,000.

Clause 5 creates a new criminal offence relating to trading in human gametes and embryos. The offence is triable summarily; and the penalty is imprisonment for up to 6 months or a fine of up to \$5,000.

PART 2

NATIONAL ETHICS COMMITTEE ON ASSISTED HUMAN REPRODUCTION

Part 2 establishes the National Ethics Committee on Assisted Human Reproduction (“the ethics committee”), specifies its functions, and provides for it to review human reproductive procedures and techniques.

Clause 6 establishes the ethics committee. It will comprise up to 10 members appointed by the Minister of Health, who must ensure that it includes members with specialist knowledge and experience of assisted human reproduction but has a majority of lay members.

The Schedule of the Bill contains provisions relating to the term of office, vacation of office, and remuneration of members of the ethics committee, and the election and tenure of its chairperson.

Clause 7 prescribes the ethics committee’s functions. They are—

- to review human reproductive proposals, to determine whether they are ethical and, in particular whether the rights of the people involved are protected and proper account is taken of the ethical perspectives of Maori, and other cultural, ethnic, religious, and social groups in New Zealand;
- to develop for providers protocols and guidelines relating to assisted human reproductive procedures and techniques;
- to advise the Minister of Health on issues relating to assisted human reproduction;
- any other functions relating to assisted human reproduction the Minister determines.

In performing its functions, the ethics committee must comply with any written directions of the Minister of Health.

Subject to the Minister’s directions, the committee may perform its functions as it thinks fit, and consult any person or body it thinks fit.

Subclause (4) requires the Ministry of Health to provide secretarial and administrative services for the ethics committee.

Clause 8 relates to the review of human reproductive proposals.

Any person will be able to refer a description of a proposal to the committee.

If the proposal is new to New Zealand, the committee will review it, give the Minister of Health a copy of the description, and advice and information on it, and then approve or decline to approve it. The committee is required not to approve it unless—

- the Minister has not given the committee the Government’s views within 2 months of the reference of the description to him or her; or
- the Minister has given the committee the Government’s views within 2 months of the reference of the description to him or her, and the committee has considered them.

And if a proposal is approved contrary to the Government’s views, the committee must ensure that the approval does not take effect until at least 6 months after the committee was given those views.

PART 3
INFORMATION ABOUT DONORS OF GAMETES, AND CHILDREN CONCEIVED FROM
DONATED GAMETES

Application

Clause 9 makes clear that *Part 3* does not have retroactive effect. That is to say it does not apply to an embryo or child unless every donated gamete from which it was conceived was given after the commencement of *Part 3*, and does not apply to a donated gamete or its donor unless it was given after the commencement of *Part 3*.

Clause 10 makes clear that the rights given by the Bill in relation to information about donors and donor children apply only to information held by virtue of their status as donors and donor children.

Advice to Prospective Donors and Others

Clause 11 requires providers to ensure that donors, and people involved in the performance of assisted human reproductive procedures involving donated gametes, are told:

- which information about donors is obtained and kept by providers:
- how long it is kept:
- why it is obtained and kept:
- which part of it is forwarded to and kept indefinitely by the Registrar-General:
- the rights of donor children, the parents of donor children, and other people, to obtain information about donors:
- the rights of donors and other people to obtain information about donor children:
- which provisions of the Bill require the information to be obtained, kept, or forwarded, or give the rights.

Information about Donors

Clause 12 imposes duties on providers to or through whom a donated gamete is given. They must—

- obtain certain prescribed information about the donor:
- give the donor reasonable opportunities to give the provider other information about the donor:
- accept any information about the donor given at any time by the donor or a person acting on the donor's behalf:
- amend, delete, destroy, or return any information about the donor that is not prescribed donor information.

Clause 13 requires a provider to keep all information about the donor of a donated gamete until 50 years after the birth of a donor child conceived from the gamete, or a pregnancy arising from the implantation of an embryo conceived from the gamete has ended, or the gamete has been destroyed or returned.

Clause 14 gives donors a right of access to information about them kept by providers. If asked by a donor, a provider must—

- give the donor access to any information about the donor kept by the provider:
- state whether any child conceived from a donated gamete given by the donor has asked for access to information about the child.

Clause 15 gives donor children and their parents rights of access to information about donors kept by providers.

A donor child over 18, or a parent of a donor child under 18, must be given access to all information.

A donor child under 18 must be given access to all non-identifying information. The rights of access are subject to a right of a provider to refuse access if satisfied that to give it is likely to endanger any person.

Clause 16 gives donor children over 18 and the parents of donor children under 18 the same rights of access to information about donors kept by the Registrar-General that they have to information kept by providers.

Clause 17 requires providers and the Registrar-General not to allow access to information about a donor unless—

- authorised or required to do so by the Bill; or
- required to do so by any other enactment or any rule of law; or
- it is information about the donor's medical, psychiatric, or genetic history that a doctor needs for the treatment, advice, or genetic counselling, of some other person.

Information about Children

Clause 18 requires providers to have in place a system for becoming aware of the births of donor children.

Clause 19 requires providers who learn of the births of donor children to obtain the prescribed information about the child and give it, and the prescribed information about the donor or donors concerned that has already been obtained, to the Registrar-General.

Clause 20 requires providers who, after giving the Registrar-General the prescribed information under *clause 19*, obtain additional, updated, or corrected information to give it to the Registrar-General when—

- the period of 50 years since the child's birth expires; or
- the provider ceases to be a provider; or
- the provider obtains it from a predecessor.

Clause 21 requires the Registrar-General to keep indefinitely information given under *clause 19* or *clause 20*.

Clause 22 imposes duties on a provider who knows of a donor child's birth. The provider must—

- before the child turns 18, give parents reasonable opportunities to give the provider information; and
- give the child reasonable opportunities to give the provider information; and
- accept all information given by the child, a person acting on the child's behalf, or a parent; and
- if asked by the child (or if the child is under 18, a parent) amend, delete, destroy, or return any information about the child that is not prescribed child information:
- keep until 50 years after the birth all prescribed child information obtained by the provider, and all other information accepted under the clause.

Clause 23 gives donor children a right of access to information about them kept by providers. If asked by a donor child over 18, a provider must—

- give the child access to any information about the child:
- state whether any donor has asked for access to information about the child.

Clause 24 empowers a donor child over 18 to give a provider or the Registrar-General consent to the disclosure of identifying information to a donor before the child turns 25. The child may at any time cancel the consent.

Clause 25 gives donors rights of access to information about donor children kept by providers.

A donor—

- must be told whether any children conceived from a donated gamete have been born, and if so the sex of each; and
- must be given access to all information about a donor child between 18 and 25 who has consented under *clause 24*; and
- must be given access to all information about a donor child over 25.

The rights of access are subject to a right of a provider to refuse access if satisfied that to give it is likely to endanger any person.

Clause 26 gives donors the same rights of access to information about donor children kept by the Registrar-General they have to information kept by providers.

Clause 27 requires providers and the Registrar-General not to allow access to information about a donor child unless—

- authorised or required to do so by the Bill; or
- required to do so by any other enactment or any rule of law; or
- it is information about the child's medical, psychiatric, or genetic history that a doctor needs for the treatment, advice, or genetic counselling, of some other person.

Application of Privacy Act 1993

Clause 28 gives rights to complain to the Privacy Commissioner under the Privacy Act 1993 about matters for which *Part 3* provides.

A person may complain if dissatisfied with any decision, action, or failure to act by a provider or the Registrar-General in relation to a request for access to information, for the amendment, deletion, destruction, or return of information kept by a provider or the Registrar-General, or for the correction or deletion of incorrect information kept by a provider or the Registrar-General.

A person may also complain if he or she believes that information has been obtained, kept, or disclosed otherwise than in accordance with the Bill, or has not been accepted, given, kept or obtained as required by the Bill.

PART 4

MISCELLANEOUS PROVISIONS

Clause 29 provides for the making of regulations for the purposes of the Bill.

Clause 30 empowers the Registrar-General to refuse to take any action for which a fee is prescribed until the fee is paid.

Clause 31 makes to the Summary Proceedings Act 1957 amendments relating to the new offences created by the Bill.

ASSISTED HUMAN REPRODUCTION

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A BILL INTITULED

An Act to—

- (a) Prohibit certain actions relating to human reproduction; and
- (b) Establish the National Ethics Committee on Assisted Human Reproduction, and prescribe its functions; and 5
- (c) Provide for the obtaining, acceptance, and keeping of, and access to, information about donors of gametes, and information about children conceived from donated gametes 10

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Assisted Human Reproduction Act 1998.

(2) Part 3 comes into force on a day to be appointed by the Governor-General by Order in Council. 15

(3) The rest of this Act comes into force on the day on which it receives the Royal assent.

2. Interpretation—(1) In this Act, unless the context otherwise requires,— 20

“Clones a human being” means derives 1 or more genetically identical human cells or organisms from a single parent by means of a biological mechanism of parthogenic reproduction:

“Donated gamete” means— 25

(a) An ovum given by a woman for the purpose of creating an embryo to be implanted in some other woman (otherwise than under a full surrogacy agreement); or

(b) A quantity of semen given by a man for the purpose of artificially impregnating a woman other than his spouse, or artificially creating an embryo to be implanted in a woman other than his spouse (otherwise than under a full surrogacy agreement): 30

“Donor” means a person from whose body a donated gamete has come; and,— 35

(a) In relation to a donor child, or an embryo conceived from a donated gamete or gametes, means a donor of 1 of its gametes; and

5 (b) In relation to a provider, means the donor of a gamete used or available for use in an assisted human reproductive procedure provided or arranged by the provider:

“Donor child” means a child conceived from a donated gamete or gametes; and,—

10 (a) In relation to a donor, means a child conceived from a donated gamete from the donor’s body; and

(b) In relation to a provider, means a child conceived from a donated gamete used in an assisted human reproductive procedure provided or arranged by the provider:

15 “Ethics committee” means the National Ethics Committee on Assisted Human Reproduction established by **section 6 (1)**:

20 “Full surrogacy agreement” means an agreement under which a man and woman are intended to have custody of a child resulting from the implantation of an embryo conceived from gametes from their bodies in some other woman:

25 “Identifying information”, in relation to any person, means the person’s name or address, and includes any information likely to enable any other person to discover the person’s name or address:

30 “Minister” means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of the Health Act 1956:

“Parent” includes guardian:

“Prescribed child information” means information prescribed for the purposes of **section 19 (a)**:

35 “Prescribed donor information” means information prescribed for the purposes of **section 12 (1) (a)**:

“Provider”—

40 (a) Means a person whose business (whether or not carried on with a view to making a profit) is or includes receiving or storing donated gametes, or providing to the public, or arranging the provision to the public of, any human reproductive procedure involving the use of donated gametes; 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, and Marriages Registration Act 1995:

“Spouse”, in relation to any person, includes a person with whom he or she is living in a relationship in the nature of marriage: 5

“Successor provider” means the successor, receiver, or liquidator of any provider or successor provider.

(2) In this Act, unless the context otherwise requires, a reference to information about a person must be read as including a reference to information about the person’s family. 10

3. Act binds the Crown—This Act binds the Crown.

PART 1

PROHIBITION OF CERTAIN ACTIONS RELATING TO HUMAN REPRODUCTION 15

4. Human cloning, and certain other activities relating to human reproduction, prohibited—(1) Every person commits an offence against this subsection who—

- (a) Clones a human being; or
- (b) Fuses human and animal gametes to produce a hybrid embryo; or 20
- (c) Implants a human embryo in an animal; or
- (d) Implants an animal embryo in a human being; or
- (e) Uses a human cell or part of a human cell to develop any procedure or technique (other than a procedure or technique not involving the use of human cells) for doing any of the things referred to in paragraphs (a) to (d). 25

(2) A person who commits an offence against subsection (1) is liable on conviction on indictment to imprisonment for a term not exceeding 5 years or a fine not exceeding \$50,000. 30

5. Trading in gametes and embryos prohibited—

(1) Every person commits an offence against this subsection who demands, gives, offers, or receives any valuable consideration or other benefit for, or for or in respect of providing or receiving, any human gamete or embryo. 35

(2) A person who commits an offence against subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$5,000.

PART 2

NATIONAL ETHICS COMMITTEE ON ASSISTED HUMAN
REPRODUCTION

5 **6. Ethics committee established**—(1) This subsection establishes a committee called the National Ethics Committee on Assisted Human Reproduction.

(2) The ethics committee comprises no more than 10 members, appointed by the Minister.

10 (3) In appointing members of the ethics committee, the Minister must ensure that—

(a) It includes members with specialist knowledge of and experience in assisted human reproductive procedures; but

(b) At any time, at least half its members are lay members.

15 (4) **The Schedule** applies to the ethics committee.

7. Functions of ethics committee—(1) The ethics committee's functions are—

20 (a) To review assisted human reproductive proposals, to determine whether they are ethical and, in particular, to determine whether—

(i) The rights of the people involved will be protected; and

25 (ii) Proper account will be taken of the ethical perspectives of Maori, and other cultural, ethnic, religious, and social groups in New Zealand:

(b) To develop for providers protocols and guidelines relating to assisted human reproductive procedures and techniques:

30 (c) To advise the Minister on issues relating to assisted human reproduction:

(d) Any other functions relating to assisted human reproduction the Minister from time to time determines.

35 (2) In performing its functions, the ethics committee must comply with any written directions of the Minister, whether given to the ethics committee alone or to several bodies including the ethics committee.

(3) Subject to **subsection (2)**, the ethics committee—

(a) May perform its functions as it thinks fit; and

40 (b) In performing its functions, may consult any other person or body.

(4) The chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the

administration of the Health Act 1956 must provide for the ethics committee the secretarial and administrative services reasonably necessary for it to perform its functions effectively.

8. Review of assisted human reproductive proposals—

- (1) Any person may refer to the ethics committee a written description of an assisted human reproductive proposal. 5
- (2) If the proposal is new to New Zealand,—
- (a) The ethics committee must review the proposal, and refer the description to the Minister, together with advice and information on the proposal: 10
- (b) The ethics committee must, by written notice to the person who referred it, approve or decline to approve the proposal; but must not approve it unless—
- (i) The Minister has not told the committee the Government's views on it within 2 months after the day the committee referred the description to the Minister; or 15
- (ii) The Minister has told the committee the Government's views on it within 2 months after the day the committee referred the description to the Minister, and the committee has considered those views: 20
- (c) If the ethics committee approves the proposal, it must decide, and state in the notice, when the approval takes effect; but if its approval is contrary to any views of the Government the Minister has told it within 2 months after the day it referred the description to the Minister, the approval must take effect no earlier than 6 months after the day it was told those views. 25 30

PART 3

INFORMATION ABOUT DONORS OF GAMETES, AND CHILDREN
CONCEIVED FROM DONATED GAMETES

Application

9. No retroactive application—This Part— 35

- (a) Applies to an embryo or child if, and only if, every donated gamete from which it was conceived was given after the commencement of this Part; and
- (b) Applies to a donated gamete if, and only if, it was given after the commencement of this Part. 40

10. Provisions not applicable to all information—(1) A provision of this Part giving a right of access to information

about any person gives a right of access to only that information required to be kept by this Act because of the person's status as a donor or donor child.

5 (2) A provision of this Part requiring the amendment, deletion, destruction, or return of information about any person requires the amendment, deletion, destruction, or return of only that information required to be kept by this Act because of the person's status as a donor or donor child.

10 (3) A provision of this Part prohibiting the giving of access to information about any person prohibits the giving of access to only that information required to be kept by this Act because of the person's status as a donor or donor child.

Advice to Prospective Donors and Others

15 **11. Providers to give advice to donors and other clients**—(1) A provider must ensure that, before a person consents to giving a donated gamete to or through the provider, or to the performance by or arranged by the provider of an assisted human reproductive procedure involving a donated gamete, the person is told the things described in
20 **subsection (2).**

(2) The things are—

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

(b) How long it is kept:

25 (c) Why it is obtained and kept:

(d) Which part of it is forwarded to and kept indefinitely by the Registrar-General:

30 (e) The rights given by this Act to donor children, the parents of donor children, 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 children:

(g) Which provisions of this Act require the information to be obtained, kept, or forwarded, or give the rights.

35 *Information about Donors*

12. Providers to obtain and accept information about donors—(1) If a donor gives a donated gamete to or through a provider, the provider must—

40 (a) Ensure that the provider has obtained the information about the donor prescribed for the purposes of this paragraph; and

- (b) Allow reasonable opportunities, before, on and after giving the gamete, for the giving of additional information about the donor; and
 - (c) Accept any information about the donor additional to the information already obtained or accepted that is offered by the donor or a person expressly authorised by the donor to give it: 5
 - (d) Accept any updated or corrected prescribed donor information about the donor that is offered by the donor or a person expressly authorised by the donor to give it (but without amending or destroying any prescribed donor information already being kept). 10
- (2) If asked to do so personally by a donor, a provider must amend, delete, destroy, or return any information about the donor previously accepted under **subsection (1)** that is not prescribed donor information. 15
- (3) **Subsection (2)** overrides **section 13**.

13. Providers to keep information about donors—A provider must keep all information about a donor obtained or accepted under **section 12 (1)** in relation to any gamete until the earliest of the following events: 20

- (a) The expiration of 50 years after the birth of a child conceived from the gamete:
- (b) The termination (otherwise than by the birth of a living child) of a pregnancy resulting from the implantation of an embryo conceived from the gamete: 25
- (c) The destruction or return before implantation of an embryo conceived from the gamete:
- (d) The destruction or return of the gamete:
- (e) The provider's ceasing to be a provider in circumstances where there is no successor provider. 30

14. Access by donors to information about them kept by providers—If asked to do so by a donor personally, a provider must—

- (a) Give the donor access to any information about the donor the provider is keeping: 35
- (b) State whether any child conceived from a donated gamete given by the donor has asked for access to information about the donor.

15. Access by children to information about donors kept by providers—(1) If asked to do so by a donor child who has turned 18, a provider must tell the child whether the 40

provider is keeping any information about a donor and (if so) give the child access to it.

5 (2) If asked to do so by a parent of a donor child who has not turned 18, a provider must tell the parent whether the provider is keeping any information about a donor and (if so) give the parent access to it.

10 (3) If asked to do so by a donor child who has not turned 18, a provider must tell the child whether the provider is keeping any information about a donor and (if so) give the child access to any of it that is not identifying information.

(4) A provider may refuse to give any person access to information about a donor if satisfied, on reasonable grounds, that to do so is likely to endanger any other person.

(5) **Subsection (4)** overrides **subsections (1) to (3)**.

15 **16. Access by children to information about donors kept by Registrar-General**—(1) If asked to do so by a donor child who has turned 18, the Registrar-General must tell the child whether the Registrar-General is keeping any information about a donor and (if so) give the child access to it.

20 (2) If asked to do so by a parent of a donor child who has not turned 18, the Registrar-General must tell the parent whether the Registrar-General is keeping any information about a donor and (if so) give the parent access to it.

25 (3) If asked to do so by a donor child who has not turned 18, a provider must tell the child whether the provider is keeping any information about a donor and (if so) give the child access to any of it that is not identifying information.

30 (4) The Registrar-General may refuse to give any person access to information about a donor if satisfied, on reasonable grounds, that to do so is likely to endanger any other person.

(5) **Subsection (4)** overrides **subsections (1) to (3)**.

17. 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—

35 (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

40 (c) It is information about the donor's medical, psychiatric, or genetic history that, in the opinion of a registered medical practitioner, should be obtained to assist the provision of treatment of or advice relating to an actual or potential medical or psychiatric condition of

any other person, or genetic counselling for or in relation to any other person.

Information about Children

18. Providers to keep track of births of children conceived from donated gametes—A provider must ensure that at all times there is in place an efficient system for being notified of, or otherwise becoming aware of, the births of donor children. 5

19. Providers to notify Registrar-General of births—A provider who learns of the birth of a donor child must promptly— 10

- (a) Take all practicable steps to obtain, from any person with knowledge of it, the information about the child prescribed for the purposes of this paragraph; and
- (b) Give to the Registrar-General, on a form provided by the Registrar-General for the purpose,— 15
 - (i) The information (if any) obtained; and
 - (ii) The information about the donor or donors obtained under **section 12 (1) (a)**.

20. Providers to give Registrar-General further information in certain circumstances—A provider who, since giving the Registrar-General information under **section 19 (b)**, has obtained additional prescribed donor information or prescribed child information, or information that updates or corrects any of the information already given, must give the Registrar-General the additional, updated, or correct information if— 20 25

- (a) The period of 50 years since the birth of the child concerned expires; or
- (b) The provider ceases to be a provider; or 30
- (c) In the case of a successor provider, the information is obtained from a predecessor.

21. Registrar-General to keep information indefinitely—The Registrar-General must keep indefinitely all information given under **section 19** or **section 20**. 35

22. Providers to accept and keep information about children conceived from donated gametes—(1) A provider who knows of a donor child's birth must—

- (a) Before the child turns 18, allow every parent of the child reasonable opportunities to give the provider information about the child; and
- 5 (b) Allow the child reasonable opportunities to give the provider information about the child; and
- (c) If asked to do so by the child, a person expressly authorised by the child to give it, or (if the child has not turned 18) any parent of the child,—
- 10 (i) Accept any information about the child additional to the information already obtained or accepted:
- (ii) Accept any updated or corrected prescribed child information about the child (but without amending or destroying any prescribed child information already being kept); and
- 15 (d) Keep until 50 years after the birth all information about the child obtained under **section 19** or accepted under **paragraph (c)**.
- (2) A provider must amend, delete, destroy, or return any
- 20 information (other than prescribed child information) about a donor child who has turned 18 kept by the provider if the child personally asks the provider to do so.
- (3) A provider must amend, delete, destroy, or return any
- 25 information (other than prescribed child information) about a donor child who has not turned 18 kept by the provider if—
- (a) The information was accepted from the child, and the child personally asks the provider to do so; or
- (b) The information was accepted from a parent, and that parent personally asks the provider to do so.
- 30 (4) **Subsections (2) and (3)** override **subsection (1) (d)**.

23. Access by children to information about them kept by providers—If asked to do so by a donor child, a provider must—

- 35 (a) Give access to any information about the child kept by the provider:
- (b) State whether any donor of a gamete from which the child was conceived has asked for access to information about the child.

24. Child over 18 may consent to disclosure of identifying information to donor—(1) A donor child who

40 has turned 18 may give a provider or the Registrar-General a written notice—

(a) Consenting to the disclosure of identifying information about the child to a donor before the expiration of 25 years after the child's birth; or

(b) Cancelling a notice given to the provider or the Registrar-General by the child under **paragraph (a)**. 5

(2) A provider or the Registrar-General must keep with any information about a donor child kept under this Act any notice given by the child under **subsection (1) (a)** that has not been cancelled.

(3) For the purposes of any provision of this Act, a provider or the Registrar-General has the consent of a donor child to the disclosure to donor of identifying information about the child if, and only if, holding a notice given by the child under **subsection (1) (a)** that has not been cancelled. 10

25. Access by donors to information about children kept by providers—(1) A provider must tell a donor, to the best of the provider's knowledge, whether there have been born any children conceived from a donated gamete given to or through the provider and (if so) the sex of each child, if asked to do so by the donor. 15 20

(2) Between the expiration of 18 and 25 years after a donor child's birth, a provider must tell a donor whether the provider is keeping any information about the child and (if so) give the donor access to it, if the provider—

(a) Is asked to do so by the donor; and 25

(b) Has the child's consent to do so.

(3) After the expiration of 25 years after a donor child's birth, a provider must tell a donor whether the provider is keeping any information about the child and (if so) give the donor access to it, if asked to do so by the donor. 30

(4) A provider may refuse to give a donor access to information about a donor child if satisfied, on reasonable grounds, that to do so is likely to endanger any other person.

(5) **Subsection (4)** overrides **subsections (1) to (3)**.

26. Access by donors to information about children kept by Registrar-General—(1) The Registrar-General must tell a donor whether information given to the Registrar-General under **section 19 (b)** discloses that there have been born any children conceived from a donated gamete and (if so) the sex of each child, if asked to do so by the donor. 35 40

(2) Between the expiration of 18 and 25 years after a donor child's birth, the Registrar-General must tell a donor whether the Registrar-General is keeping any prescribed child

information about the child and (if so) give the donor access to it, if the Registrar-General—

- (a) Is asked to do so by the donor; and
 - (b) Has the child's consent to do so.
- 5 (3) After the expiration of 25 years after a donor child's birth, the Registrar-General must tell a donor whether the Registrar-General is keeping any prescribed child information about the child and (if so) give the donor access to it, if asked to do so by the donor.
- 10 (4) The Registrar-General may refuse to give a donor access to prescribed child information if satisfied, on reasonable grounds, that to do so is likely to endanger any other person.
- (5) **Subsection (4)** overrides **subsections (1) to (3)**.

15 **27. Restriction on access to information about children**—A provider or the Registrar-General must not disclose any information about a donor child 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
- 20 (c) It is information about the child's medical, psychiatric, or genetic history that, in the opinion of a registered medical practitioner, should be obtained to assist the provision of treatment of or advice relating to an actual or potential medical or psychiatric condition of
- 25 any other person, or genetic counselling for or in relation to any other person.

Application of Privacy Act 1993

30 **28. 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—
 - 35 (i) A request under this Act for access to information; or
 - (ii) A request under this Act for the amendment, deletion, destruction, or return of information kept by the provider or the Registrar-General; or
 - 40 (iii) A request for the correction or deletion of incorrect information kept by the provider or the Registrar-General under this Act; 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)**. 5

(3) Parts VIII, IX, and XII 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. 10

PART 4

MISCELLANEOUS PROVISIONS

29. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes: 15

(a) Prescribing information for the purposes of **section 12 (1) (a)** or **section 19 (a)**:

(b) Prescribing the fees to be paid in relation to the taking of any action under **Part 3** by the Registrar-General: 20

(c) Providing for any other matters contemplated by or necessary for giving full effect to this Act and for its due administration.

30. 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. 25

31. Amendment to Summary Proceedings Act 1957—Part II of the First Schedule of the Summary Proceedings Act 1957 is amended by inserting, after the item relating to the Arms Act 1983, the following item: 30

“The Assisted Human Reproduction Act 1998	4 (1) (a)	Cloning humans
	4 (1) (b)	Fusing human and animal gametes
	4 (1) (c)	Implanting human embryos in animals
	4 (1) (d)	Implanting animal embryos in humans
	4 (1) (e)	Using human cells to develop certain procedures and techniques”

SCHEDULE

Section 6 (4)

ADDITIONAL PROVISIONS RELATING TO ETHICS COMMITTEE

1. "Member" defined—In this schedule, "member" means a member of the ethics committee:

2. Term—A member must be appointed for a term of not more than 3 years; but may from time to time be reappointed.

3. Vacation of office—(1) A member may resign office by written notice to the Minister.

(2) The Minister may, by written notice to the member, remove a member from office for disability, bankruptcy, neglect of duty, or misconduct, proved to the Minister's satisfaction.

4. Chairperson—(1) The ethics committee must elect a lay member to be chairperson—

- (a) At its first meeting in every year; and
- (b) At any meeting where it removes the chairperson from office by resolution; and
- (c) At its first meeting after the office becomes vacant in any other circumstances.

(2) The chairperson continues in that office until the earliest of the following:

- (a) Ceasing to be a member;
- (b) Being removed from office by resolution of the ethics committee;
- (c) The receipt by the ethics committee of the chairperson's written resignation as chairperson;
- (d) The election of a successor.

5. Remuneration—(1) The ethics committee is a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

- (2) Every member is entitled to receive—
 - (a) Remuneration by way of fees, salary, or allowances, for the member's services as a member;
 - (b) Payment of travelling allowances or expenses in respect of time spent travelling in the service of the ethics committee.