

South Australia

Family Relationships Regulations 2010

under the *Family Relationships Act 1975*

Contents

- 1 Short title
- 3 Interpretation
- 3A Requirements for Section 10C declarations
- 3B Persons and bodies to be consulted in preparation of State Framework for Altruistic Surrogacy
- 3C Requirements for preparation of and consultation on State Framework for Altruistic Surrogacy
- 4 Accredited counselling services and provision of counselling services

Legislative history

1—Short title

These regulations may be cited as the *Family Relationships Regulations 2010*.

3—Interpretation

In these regulations—

Act means the *Family Relationships Act 1975*.

3A—Requirements for Section 10C declarations

- (1) A woman and her partner may make a declaration that they have elected to have the parentage of a child birthed by the woman as a result of a fertilisation procedure determined in accordance with section 10C(3a) of the Act (a ***Section 10C declaration***).
- (2) For the purposes of section 10C(3a)(c) of the Act, the following requirements are prescribed in relation to a Section 10C declaration:
 - (a) the declaration must be made in writing;
 - (b) the woman and her partner must each declare that, for the purposes of the law of the State, they have elected that—
 - (i) the partner will be conclusively presumed to have caused the pregnancy; and
 - (ii) the partner will be taken to be the father or co-parent (as the case may be) of the child;
 - (c) the declaration must be signed by each party to the declaration;

- (d) the signatures must be made in the presence of a justice of the peace or another person authorised under the *Oaths Act 1936* to take declarations or attest the execution of instruments.

3B—Persons and bodies to be consulted in preparation of State Framework for Altruistic Surrogacy

For the purposes of section 10FA(4)(a)(iv) of the Act the following persons and bodies are prescribed:

- (a) the Minister to whom the administration of the *Assisted Reproductive Treatment Act 1988* is committed;
- (b) the Australian Human Rights Commission;
- (c) the Council for the Care of Children;
- (d) the Donor Conception Support Group;
- (e) The Fertility Society of Australia;
- (f) the Health Consumers Alliance of South Australia Incorporated;
- (g) the Office for Women;
- (h) a person with knowledge and experience in the area of law relating to assisted reproductive treatment or surrogacy;
- (i) a person with knowledge and experience in relation to the adoption of children.

3C—Requirements for preparation of and consultation on State Framework for Altruistic Surrogacy

For the purposes of section 10FA(4) of the Act, the State Framework for Altruistic Surrogacy (the *State Framework*) is to be prepared, and public consultation undertaken, in accordance with the following:

- (a) after consultation with the persons and bodies referred to in section 10FA(4)(a) of the Act, the Minister must prepare a draft of the State Framework and a report containing an explanation of the purpose and effect of the draft State Framework;
- (b) the Minister must cause the draft State Framework and the report to be published on a website determined by the Minister together with a notice—
 - (i) stating the places at which the draft State Framework and the report are to be made available for inspection; and
 - (ii) inviting interested persons to make written submissions in relation to the draft State Framework within the period specified in the notice (being not less than 60 days from the date of publication of the notice);
- (c) after consulting with the persons and bodies referred to in section 10FA(4)(a) of the Act on—
 - (i) the provisions of the draft State Framework; and

- (ii) any alterations that the Minister proposes should be made to the draft State Framework (including as a result of matters raised in any written submissions received in response to the draft State Framework under paragraph (b)),

the Minister may—

- (iii) approve the draft State Framework as the State Framework for Altruistic Surrogacy; or
 - (iv) alter the draft State Framework and approve the draft State Framework as altered as the State Framework for Altruistic Surrogacy; or
 - (v) decline to approve the draft State Framework as the State Framework for Altruistic Surrogacy;
- (d) after approving the State Framework for Altruistic Surrogacy, the Minister must cause it to be published in the Gazette.

4—Accredited counselling services and provision of counselling services

- (1) A counselling service is accredited for the purposes of section 10HA(2)(b)(vi)(A) of the Act if—
- (a) 1 or more of the officers or employees of the service meet the eligibility criteria for full membership of the Australian and New Zealand Infertility Counsellors Association, as in force from time to time; or
 - (b) the service is accredited in writing by the Minister for the purposes of that subsubparagraph (whether conditionally or unconditionally).
- (2) For the purposes of section 10HA(2)(b)(vi)(C) of the Act, the assessment and approval required under that subparagraph must be undertaken—
- (a) if the service is accredited under subregulation (1)(a)—by an officer or employee of the counselling service of a kind referred to in that paragraph;
 - (b) if the service is accredited under subregulation (1)(b)—in accordance with any condition of the written accreditation.
- (3) A counselling service is accredited for the purposes of section 10HA(3) of the Act if—
- (a) 1 or more of the officers or employees of the service meet the eligibility criteria for full membership of the Australian and New Zealand Infertility Counsellors Association, as in force from time to time; or
 - (b) the service is accredited in writing by the Minister for the purposes of that subsection (whether conditionally or unconditionally).
- (4) For the purposes of section 10HA(3) of the Act, the counselling referred to in that subsection must be provided—
- (a) if the service is accredited under subregulation (1)(a)—by an officer or employee of the counselling service of a kind referred to in that paragraph;
 - (b) if the service is accredited under subregulation (1)(b)—in accordance with any condition of the written accreditation.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2010	249	<i>Gazette 2.12.2010 p5496</i>	2.12.2010: r 2
2016	226	<i>Gazette 15.9.2016 p3744</i>	23.9.2016: r 2
2016	252	<i>Gazette 27.10.2016 p4271</i>	27.2.2017: r 2
2020	214	<i>Gazette 18.6.2020 p3417</i>	1.9.2020: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
r 2	omitted under the <i>Legislation Revision and Publication Act 2002</i>	23.9.2016
r 3A	inserted by 226/2016 r 4	23.9.2016
rr 3B and 3C	inserted by 252/2016 r 4	27.2.2017

Historical versions

23.9.2016