

South Australia

Research Involving Human Embryos Regulations 2003

under the *Research Involving Human Embryos Act 2003*

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1—Short title

These regulations may be cited as the *Research Involving Human Embryos Regulations 2003*.

2—Commencement

These regulations will come into operation on the day on which the *Research Involving Human Embryos Act 2003* comes into operation.

3—Interpretation

In these regulations—

Act means the *Research Involving Human Embryos Act 2003*;

embryo means a human embryo;

SACRT means the South Australian Council on Reproductive Technology.

4—Notification of decision etc

For the purposes of sections 12(1)(c) and 18(1)(c) of the Act, SACRT is prescribed.

5—Prohibited and regulated practices

- (1) Pursuant to section 36(2)(a) and (b) of the Act, the holder of a licence must not maintain an embryo, or cause, suffer or permit an embryo to be maintained, outside the body of a woman for a period of more than 10 years after fertilisation.

Maximum penalty: \$10 000.

- (2) Any—
- (a) activity undertaken by the holder of a licence; or
 - (b) activity undertaken by a person who is not the holder of a licence that involves research using any human reproductive material,
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must be undertaken in compliance with the relevant requirements of the *Ethical Guidelines on the Use of Reproductive Technology in Clinical Practice and Research* published by the NHMRC.

Maximum penalty: \$10 000.

6—Applications for warrants (section 23(7) of Act)

- (1) The grounds of an application for a warrant under section 23 of the Act made personally must be verified by affidavit.
- (2) An application for a warrant cannot be made by telephone unless in the opinion of the applicant a warrant is urgently required and there is not enough time to make the application personally.
- (3) If an application for a warrant is made by telephone—
 - (a) the applicant must inform the magistrate of the applicant's name and identify the position that he or she holds for the purposes of the Act, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant holds that position; and
 - (b) the applicant must inform the magistrate of the purpose for which the warrant is required and the grounds on which it is sought; and
 - (c) if it appears to the magistrate from the information given by the applicant that there are proper grounds to issue a warrant, the magistrate must inform the applicant of the facts that justify, in the magistrate's opinion, the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and
 - (d) if the applicant gives such an undertaking, the magistrate may then make out and sign a warrant, noting on the warrant the facts that justify, in the magistrate's opinion, the issue of the warrant; and
 - (e) the warrant is taken to have been issued, and comes into force, when signed by the magistrate; and
 - (f) the magistrate must inform the applicant of the terms of the warrant; and
 - (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).
- (4) A magistrate by whom a warrant is issued must file the warrant, or a copy of the warrant, and the affidavit verifying the grounds on which the application for the warrant was made, in the Magistrates Court.

7—Compensation for damage (section 26(2) of Act)

- (1) Any compensation under section 26(1) of the Act is payable by the Minister.
- (2) A person seeking compensation must make application to the Minister in a manner and form determined by the Minister.
- (3) The Minister may require that an applicant provide such information as may be determined by the Minister in order to substantiate a claim for compensation, and that that information be verified by affidavit.

8—Collection and provision of information

- (1) An HREC must, in accordance with requirements determined by SACRT, collect information, and provide reports, on any research that uses any human reproductive material undertaken with the approval, or under the supervision, of the HREC.
- (2) A requirement under subregulation (1) applies whether or not the research is being conducted by the holder of a licence.
- (3) SACRT must include in its annual report to the Minister under section 12 of the *Reproductive Technology (Clinical Practices) Act 1988*, in relation to any research that uses any human reproductive material undertaken in the State (whether or not the research is being conducted by the holder of a licence), the same kind of information that the NHMRC provides in a report to a Commonwealth Minister under Commonwealth legislation in relation to any research using human embryos.

9—Provision of research protocols

- (1) If an HREC is asked to consider and approve a protocol relating to the use of any human reproductive material for research, the HREC must furnish a copy of the protocol to SACRT within 14 days after making its decision on the protocol.
- (2) Subregulation (1) applies whether or not the research is to be conducted by the holder of a licence.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 18 December 2003

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