

Advisory Committee on Assisted Reproductive Technology

Import and Export of Gametes and Embryos: Proposed advice to the Minister of Health

Feedback Form

Please provide your contact details below.

Name:	Fertility New Zealand
If this feedback is on behalf of an organisation, please name the organisation:	Fertility New Zealand
Please provide a brief description of the organisation if applicable:	Consumer Advocacy
Address/email:	support@fertilitynz.org
Interest in this topic (eg, user of fertility services, health professional, researcher, member of the public):	Consumer Advocacy and Education

We will place all feedback on ACART's website, except where we are asked that feedback be withheld in full or part for reasons of confidentiality. We will remove contact information from all feedback.

☐ I **request** that my feedback be withheld in full or part from publication on ACART's website (if you wish a part to be withheld, please clearly indicate which part).

Please note that all feedback may be requested by any member of the public under the Official Information Act 1982 (the Act). If there is any part of your feedback that you consider should be properly withheld under the Act, please make this clear in your feedback, noting the reasons.

If information from your feedback is requested under the Act, the Ministry of Health (the Ministry) will release your feedback to the person who requested it. The Ministry will remove your name and/or contact details from the feedback if you check one or both of the following boxes. Where feedback is on behalf of an organisation, the Ministry will not remove the name of the organisation.

☐ I **do not** give permission for my name to be released to persons under the Official Information Act 1982.

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We will acknowledge all feedback.

Questions about the proposals discussed in the paper

Question 1: Import and subsequent use of gametes and embryos

Do you agree that the principles and requirements of the Human Assisted Reproductive Technology Act 2004 should apply in all cases where people wish to import into and use in New Zealand gametes and embryos sourced or created in other countries?

Yes ☐ No ☐

Please give reasons for your views.

Question 2: Export of gametes and embryos

Do you agree that export of gametes and embryos should be possible, provided that:
the subsequent use of gametes or embryos is consistent with the principles and requirements of the Human Assisted Reproductive Technology Act 2004, including any prohibitions, and
all gamete providers, including donors, have given informed consent to the export of their gametes or of embryos created from their gametes?

Yes ☒ No ☒

Please give reasons for your views.

We consider that the HART Act and its principles should guide whether or not embryos and gametes should be imported or exported from New Zealand.

We agree that practices such a sex selection should be prohibited and that there should always be a requirement for donors to be identifiable. We consider that this is in the best interests of any children born through assisted reproduction. To this end we also agree that the New Zealand Fertility Standard should be adhered to and that the maximum number of families per donor should continue to be limited.

At the utmost importance are the rights of children and their parents we consider that there are circumstances where the HART Act does not represent the interests of children born from an egg or sperm donor who received payment for their services (particularly in countries where such donations are always remunerated). Nor does it represent the rights of children born of assisted reproduction practices in an overseas jurisdiction whose parents wish to have a sibling and are currently unable to have embryos frozen overseas transferred in New Zealand.

In both cases either the prohibition of valuable consideration for donation or the prohibition against transferring embryos created overseas in non- HART compliant jurisdictions means the family cannot have children who are full siblings.

We consider that both circumstances should be allowed under the HART Act.

Question 3: Decisions about import and export for assisted reproductive procedures

Do you agree that fertility services providers should continue to make decisions about whether the import and export of gametes and embryos for assisted reproductive procedures is consistent with the principles of the Human Assisted Reproductive Technology Act 2004, and New Zealand requirements?

Yes ☒ No ☒

If you disagree with the proposal, who or what should make decisions about whether the import and export of gametes and embryos for assisted reproductive procedures is consistent with New Zealand requirements?

Please give reasons for your views.

There are two distinct scenarios:

1. Where Donor sperm or donor eggs are used to create an embryo we consider that the “owner” (the couple who had the treatment to create the embryo) should be required to give consent prior to the import or export of their embryos. The Donor should not have to consent in order for the owner to transport the embryos. As a courtesy the Donor could be advised of the fact the embryo is being transported overseas, but we do not see this as an absolute requirement.
2. Where Donor Sperm and Donor eggs are in storage unused, and may be allocated to a person in the future. Then in this instance the owner is the Donor and in this circumstance we consider that permission must be obtained from the Donor prior to exportation.

Question 4: Decisions about import and export for human reproductive research

Do you agree that the role of the Ethics Committee on Assisted Reproductive Technology in respect of human reproductive research should explicitly include considering and deciding applications to undertake human reproductive research involving imported and exported gametes and embryos?

Yes ☒ No ☐

If you disagree with the proposal, who or what should be responsible for making decisions about research involving imported and exported gametes and embryos?

Please give reasons for your views.

Gametes and embryos within NZ should continue to be subject to ECART with respect to human research, whether they were stored locally or imported. We note that there is no current review function or Appeals process; we consider that it is appropriate for ECART to consider applications but these should be able to be reviewed through an Appeals process.

We consider that service providers should not have prohibit consumers from being able to export their own gametes or embryos regardless of whether or not their intended use is for treatment or research.

Question 5: Regulations

Do you agree that regulations should be made about the requirements for the import and export of gametes and embryos?

Yes ☐ No ☒

If you disagree with the proposal, how should requirements for import and export be set out?

We agree that there should be clear guidelines or principles which have been derived from the HART Act. We also consider that these should be clear to consumers and there should be available to consumers and easily understood.

Please give reasons for your views.

We consider that there should be more scope for considering individual circumstances. We prefer principles for decision-makers rather than regulations. Our concern is that regulations can be rigid and leave very little discretion and this is necessary when dealing with individual consumers and the myriad of circumstances and scenarios that arise.

Question 6: Donor compensation

Do you agree that the Ministry of Health should be asked to consider guidance to fertility services providers that allows for increased levels of donor compensation, particularly for egg donors?

Yes ☒ No ☐

Do you agree that such guidance should, for consistency, include the expenses available to surrogates?

Yes ☒ No ☐

If you agree with the proposals, do you have a view about appropriate maximum levels of compensation to donors?

We consider that if egg donors should be remunerated that that remuneration should be no more than \$2,000.

Please give reasons for your views.

We consider that the payment should recognise donors of gametes or embryos and also recognise surrogates. The payment would be more in the way of donor assistance. We consider that donors and surrogates provide an essential service to consumers who without them would not be able to even consider a family. The payment does not entice donors but merely recognises the time and cost incurred in choosing to donate gametes or embryos and also the role of a surrogate. In turn this may encourage more persons to consider donation and thereby reduce the need for consumers to spend a considerable amount of money to travel to other jurisdictions in order to find a donor and undergo treatment.

Question 7: Public health information

Do you agree that the Ministry of Health should be asked to consider public health information about:

the impact of age and other factors on fertility, and
gamete donation?

Yes ☒ No ☐

Please give reasons for your views.

Fertility New Zealand has a strong educational focus and this year is Fertility Health. We have made significant efforts to educate consumers. Despite this there appears to be several misconceptions that remain regarding fertility and aging prospective parents. There also significant issues regarding BMI and infertility and the comorbidities that arise such as diabetes and their effect on infertility. Increased awareness of health issues including sexually transmitted diseases and infertility need to be addressed by the Ministry.

In addition, we consider that education regarding gamete donation may increase the number of donors available in New Zealand and thereby perhaps alleviating the cost and need for consumers to travel overseas to undergo treatment.

Question 8: Data about offshore fertility treatment and outcomes

Do you agree that the Ministry of Health should be asked to consider strategies for collecting data about the use and outcomes of offshore fertility treatment by New Zealanders?

Yes ☒ No ☐

If you agree, do you have ideas about how such information could be collected?

We agree that the information should be collected and that at the minimum the name of the child and time of birth should be collected. In addition, the name of the donor and country from which the gametes or embryos were exported from should also be noted.

Please give reasons for your views.

Data would assist with children resulting from the gametes or embryos having a greater knowledge and understanding of their origins. In addition, data collected would assist in determining whether or not the principles of the HART Act are being upheld.

Question 9: Comments or suggestions

Do you have any other comments or suggestions about the issues discussed in this proposed advice paper?

Thank you for the opportunity to make this submission. We are often contacted by consumers who have a vested interest in the import and export of gametes and embryos. We acknowledge the importance of the work of ACART but consider that it is important to ensure that consumers specific and often unique circumstances can be taken into account when making decisions. That the committee should be given a discretion to consider the specific circumstances of those applying to them and not be fettered by regulations or a rigid view of the types of cases that are considered to be suitable by law makers. In addition, in terms of natural justice we consider that consumers should have the right to Appeal decisions or seek a review.