

Terms of Reference

The Review of the *Human Reproductive Technology Act 1991 (HRT Act)* to consider such matters as appear to be relevant to the operation and effectiveness of this Act including:

- Research and experimentation on gametes, eggs in the process of fertilisation and embryos. In particular consider the current disparity between the *HRT Act* and relevant Commonwealth legislation and need to adopt nationally consistent legislation regarding excess assisted reproductive technology (ART) embryo research and prohibited practices.
- Genetic testing of embryos,aviour siblings, mitochondrial donation and gene editing technology.
- Posthumous collection, storage and use of gametes and embryos, including the consent required, conditions for use, and any impact on other legislation such as the *Human Tissue and Transplant Act 1982*, *Artificial Conception Act 1985*, *Births Deaths and Marriages Registration Act 1998*, *Administration Act 1903* and *Family Provision Act 1972*.
- Rights to storage of gametes and embryos including –
 - rights upon separation or divorce, or the death or the physical or mental incapacity of an individual, or one or both members of a couple.
 - rights of third parties such as subsequent spouses, and the rights of other relatives.
- The storage of gametes, eggs in the process of fertilisations and embryos (including the duration of storage and procedures for extension of storage periods).
- The Chief Executive Officer's (CEO) power to issue directions, the power to make a Code of Practice, regulations and guidelines, and the scope and effect of the existing directions and regulations under the *HRT Act*.
- The effectiveness of powers of enforcement and disciplinary provisions under the *HRT Act* and the adequacy of offences and penalties.
- Whether there should be a process of review or appeal of decisions made (by the Reproductive Technology Council (Council)) under the *HRT Act*.
- The impact on the *HRT Act* of relevant Commonwealth and State legislation, and aspects of legislation of other jurisdictions which could be incorporated into the *HRT Act*.
- The effectiveness of the current licensing regimen, including fee structure, reporting requirements, powers of inspection and powers of obtaining information.
- Management of information / the Reproductive Technology Registers, including;
 - Confidentiality of information,
 - Use of data for research,
 - Use of data for purposes of national data collection and;
 - Access to information about donation, genetic parentage and donor conception,
 - The Voluntary Register (donor-assisted conception).
- The effectiveness of the operation of the Council and committees of the Council;

- The need for the continuation of the functions conferred, on the Council and on the CEO respectively by the *HRT Act*.

The review of the *Surrogacy Act 2008* to include the effectiveness and operation of the *Act* with particular reference to:

- Interaction with the *HRT Act*;
- The need for provision as to the administration of the *Surrogacy Act* and any functions to be conferred on the Minister, Council, CEO and assisting staff/persons, respectively by this Act;
- The effectiveness of the current regime, reporting requirements, powers of inspection and investigation, powers of obtaining information;
- The effectiveness of powers of enforcement and disciplinary provisions under the *Surrogacy Act*, the adequacy of offences, penalties and timeframe for bringing proceedings;
- The impact on the *Surrogacy Act* of relevant Commonwealth and State legislation and aspects of legislation of other jurisdictions, which could be incorporated into the Act, including consideration of harmonisation of domestic surrogacy legislation;
- The need for continued prohibition on commercial surrogacy;
- International commercial surrogacy arrangements;
- International trade in gametes and embryos;
- The effectiveness of the operation of the Council and committees of the Council;
- Whether there should be a process of review or appeal of decisions made (by Council) under the *Surrogacy Act*.