

**TO: PERSONS RESPONSIBLE AT ALL CLINICS LICENSED UNDER  
THE *HUMAN REPRODUCTIVE TECHNOLOGY ACT 1991***

**FROM: DR MARK McKENNA  
DEPUTY CHAIR  
REPRODUCTIVE TECHNOLOGY COUNCIL**

**DATE: 10 JULY 2001**

**RE: IMPORT OF DONATED HUMAN REPRODUCTIVE MATERIAL**

### **Background**

There are occasions when a WA clinic may wish to import donated human reproductive material (usually semen) from outside the state. This may either be from interstate or from overseas.

A number of requirements of the *Human Reproductive Technology Act 1991* (Act) and Directions are applicable to these situations. Approval by Council for importation in each case is not required. Rather compliance with requirements under the Act is left to the licensee. Council is able to monitor compliance with these requirements in accordance with Direction 6.1.

Put simply, exceptions aside, Direction 6.1 prohibits the importation of donated gametes, unless the licensee ensures that all the information required under the Act for the Register is available, including donor identification. Monitoring of information available from the Reproductive Technology Register indicates that up to December 31 1998 there has been compliance with Direction 6.1, although 16 sperm donors resided outside the State (including 11 from overseas).

However in relation to the issue of importation of donated human reproductive material into Western Australia, there are two other important aspects requiring licensee compliance with the Directions, namely:

- The requirements relating to effective consent of the donors;
- The five family limit for each donor.

### *Consent of Donors*

Prior to the importation of human reproductive material, licensees need to ensure they have complied with all of the relevant requirements of the Act and Directions, such as those relating to consent (Ss.22 (1), (3), (6-9); Directions 3.1, 3.5, 3.9, 4.2, 7.1 ).

The licensee remains responsible under the Act to ensure the requirements of the Act and Directions are complied with.

### *The Five Family Limit*

Direction 8.1 provides for limits to the number of offspring a donor may have.

*“Direction 8.1 The licensee must ensure that for each donor of gametes there are no more than five known donee families, including families that may be outside Western Australia.”*

It should be noted that this limit is explicit and may be stricter than that set in most other jurisdictions, including Denmark.

### **Recommendations**

Licensees are advised to consult with their legal advisers concerning compliance with the provisions relating to consent in circumstances where importation of human reproductive material is being contemplated.

Licensees are reminded not to import semen from any source unless the licensee can ensure for each donor of gametes there are no more than five known donee families.

### **Future changes**

The Council is currently reviewing the position concerning importation of donated material. Where, following its review the Council considers it appropriate, it may make some recommendations to the Commissioner regarding changes to the Directions.

It should be noted however that, in the event the Act is amended to provide a right of access by offspring to identifying information about the donor (as recommended by the Select Committee), sperm may not be imported from sources that are unable to release details of donor identity to participants.

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**Mark McKenna, Deputy Chair Reproductive Technology Council**