



WESTERN
AUSTRALIAN
GOVERNMENT
Gazette

ISSN 1448-949X PRINT POST APPROVED PP665002/00041

509



PERTH, FRIDAY, 27 FEBRUARY 2009 No. 30

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM
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AA103*

SURROGACY ACT 2008

No. 47 of 2008

PROCLAMATION

Western Australia

By His Excellency

Doctor Kenneth Comminos Michael,
Companion of the Order of Australia,
Governor of the State of Western Australia

[L.S.]

KENNETH COMMINOS MICHAEL
Governor

I, the Governor, acting under the *Surrogacy Act 2008* section 2(b) and with the advice and consent of the Executive Council, fix 1 March 2009 as the day on which the provisions of that Act, other than sections 1 and 2, come into operation.

Given under my hand and the Public Seal of the State on 24 February 2009.

By Command of the Governor,

KIM HAMES, Minister for Health.

HEALTH

HE301*

Human Reproductive Technology Act 1991

Surrogacy Directions 2009

Given by the CEO of the Department of Health under section 31 of the Act.

1. Citation

These directions are the *Surrogacy Directions 2009*.

2. Commencement

These directions come into operation as follows —

- (a) directions 1 and 2 — on the day on which these directions are published in the *Gazette*;
- (b) the rest of the directions — on the day on which the *Surrogacy Act 2008* section 66 comes into operation.

3. Terms used in these directions

In these directions —

arranged parents has the meaning given in the *Surrogacy Act 2008* section 14;

birth parents has the meaning given in the *Surrogacy Act 2008* section 14;

donor has the meaning given in the *Surrogacy Act 2008* section 17(b)(iii);

exempt practitioner has the meaning given in the HRT Directions;

HRT Directions means the directions given by the Commissioner of Health and published in the *Gazette* on 30 November 2004;

parties has the meaning given in the *Surrogacy Act 2008* section 17(c);

surrogacy arrangement has the meaning given in the *Surrogacy Act 2008* section 3.

4. Purpose

These directions are given to set the standards for the use of artificial fertilisation procedures in connection with surrogacy arrangements.

5. Welfare of child paramount

When a person to whom a licence applies or an exempt practitioner is considering whether to provide an artificial fertilisation procedure in connection with a surrogacy arrangement —

- (a) the welfare of any child that may be born as a result of the procedure is to be the paramount consideration; and
- (b) the welfare of any existing child of the birth mother, a donor or the arranged parents is to be taken into account.

6. Harm minimisation

When providing an artificial fertilisation procedure in connection with a surrogacy arrangement a person to whom a licence applies or an exempt practitioner is to ensure that the risk of physical, social and psychological harm to the birth parents, the arranged parents and any donor is minimised.

7. Approval of surrogacy arrangements

A licensee is not to provide an artificial fertilisation procedure in connection with a surrogacy arrangement unless the arrangement has been approved by the Council in accordance with the requirements in the *Surrogacy Act 2008* section 17.

8. Clinic surrogacy coordinator

- (1) Each licensee who offers, whether by advertising or any other means, to provide reproductive technology treatment in connection with a surrogacy arrangement is to nominate a person to carry out the role of clinic surrogacy coordinator.

- (2) The role of the clinic surrogacy coordinator is to —
 - (a) be the primary contact point for persons who have inquiries about surrogacy arrangements; and
 - (b) ensure that prospective parties to a surrogacy arrangement are given information referred to in direction 10; and
 - (c) coordinate the assessment processes and counselling in connection with a surrogacy arrangement; and
 - (d) assist parties in making an application to the Council for the approval of a surrogacy arrangement; and
 - (e) coordinate the provision of ongoing counselling and support referred to in direction 12; and
 - (f) facilitate counselling referred to in direction 13.
- (3) A clinic surrogacy coordinator is to be available at the licensed premises during normal business hours.

9. Role of clinic in introducing parties to surrogacy arrangement

- (1) A licensee is not to actively recruit a woman to be a birth mother.
- (2) A licensee may arrange for a woman who has approached the licensee offering to be a birth mother to be introduced to prospective arranged parents.

10. Information to be provided

- (1) Before arranging for any assessment process in connection with a surrogacy arrangement to commence, a person to whom a licence applies or an exempt practitioner is to give each proposed party to the surrogacy arrangement information about —
 - (a) the assessment process to be undertaken in connection with the surrogacy arrangement; and
 - (b) the *Artificial Conception Act 1985*; and
 - (c) the *Surrogacy Act 2008*; and
 - (d) the rights of donors, participants and children born as a result of the surrogacy arrangement to access identifying and non-identifying information in accordance with the *Human Reproductive Technology Act 1991* and the *Surrogacy Act 2008*; and
 - (e) the medical and social implications in relation to surrogacy and for children born as a result of a surrogacy arrangement.
- (2) The information referred to in subdirection (1) is to be provided by giving an oral explanation and also giving written material that has been approved by the Council.

11. Consent of arranged parents

- (1) A person to whom a licence applies or an exempt practitioner is not to carry out an artificial fertilisation procedure in connection with a surrogacy arrangement unless at the time of, or immediately prior to, the carrying out of the procedure effective consent is given by the arranged parents.
- (2) The consent referred to in subdirection (1) is additional to consent referred to in the HRT Directions Part 3.

12. Ongoing counselling and support

A licensee is to ensure that each party to a surrogacy arrangement for which the licensee is providing reproductive technology treatment is to have access to counselling and support services in connection with the arrangement at each of the following times —

- (a) following a decision by the Council in relation to an application for the approval of a surrogacy arrangement;
- (b) during treatment in connection with a surrogacy arrangement;
- (c) following a decision to discontinue treatment;
- (d) during any pregnancy that results from treatment;
- (e) following the miscarriage or birth of any child born in connection with a surrogacy arrangement.

13. Counselling requirements during any pregnancy

If a pregnancy in connection with a surrogacy arrangement results from the use of an artificial fertilisation procedure provided by a licensee, the licensee is to make all reasonable efforts to facilitate joint counselling for the birth mother and the arranged parents at each of the following times —

- (a) 20 weeks after the beginning of a pregnancy;
- (b) 34 weeks after the beginning of a pregnancy;
- (c) within 14 days after a miscarriage or the birth of a child.

14. Information to be provided by licensee

A licensee who provides an artificial fertilisation procedure in connection with a surrogacy arrangement is to include with information required under the HRT Directions direction 2.6 any additional information requested by the Executive Officer about the arranged parents, the birth parents and any donor.

15. Annual reporting

A licensee who provides an artificial fertilisation procedure in connection with a surrogacy arrangement is to include in the annual report required under the HRT Directions direction 2.18 the information set out in Schedule 1 of these directions.

Schedule 1 — Annual reporting requirements

[d. 15]

1. Unit ID.
2. Number of clients who commenced treatment with the intention of becoming arranged parents in a surrogacy arrangement.
3. Number of arranged parents who sought Council approval for a surrogacy arrangement.
4. Number of surrogacy arrangements approved by the Council.
5. Number of surrogacy arrangements involving treatment using egg or sperm provided by a donor.
6. Number of surrogacy arrangements involving treatment using embryos created from egg and sperm provided by donors.
7. Number of surrogacy arrangements where a party has withdrawn from a surrogacy arrangement and the reason for that withdrawal.
8. Number of pregnancies in connection with surrogacy arrangements.
9. Number of live births in connection with surrogacy arrangements.

Dr PETER FLETT, Chief Executive Officer.

JUSTICE

JU301*

Civil Judgments Enforcement Act 2004

**Civil Judgments Enforcement Amendment
Regulations 2009**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Civil Judgments Enforcement Amendment Regulations 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Bail Amendment Act 2008* Part 2 comes into operation.