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## HEALTH

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### HE401

#### PUBLIC HEALTH ACT 2016

##### EXTENSION OF DECLARATION (NO.3) OF PUBLIC HEALTH STATE OF EMERGENCY

Pursuant to section 170 of the *Public Health Act 2016* (WA) I, Amber-Jade Sanderson, the Minister for Health, hereby extend the public health state of emergency declaration, which came into effect on 22 September 2021 at 16:25 hours.

The duration of the public health state of emergency declaration is extended for a period of **14 days** (the extension).

Time of this extension: 12:40 pm.

Date of this extension: 4 April 2022

Hon. AMBER-JADE SANDERSON, MLA, Minister for Health.

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### HE402

#### HUMAN REPRODUCTIVE TECHNOLOGY ACT 1991

##### SURROGACY DIRECTIONS 2022

### INTRODUCTION

These directions are given by the CEO of the Department of Health in accordance with section 31 of the *Human Reproductive Technology Act 1991* (the Act).

#### 1. Citation

These directions are the Surrogacy Directions 2022.

#### 2. Commencement

These directions come into operation on the day on which these directions are published in the *Gazette*.

#### 3. Revocation

The Surrogacy Directions 2009 given by the CEO of the Department of Health under section 31 of the Act and published in the Western Australian *Government Gazette* on 27 February 2009 are revoked.

#### 4. 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;

“**Council**” means the Reproductive Technology Council;

“**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 CEO of the Department of Health and published in the *Gazette* on 23 June 2021;

“**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.

#### 5. Purpose

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

#### 6. 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.

#### 7. 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.

**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 Act 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 2.5 any additional information requested by the Executive Officer of the Council 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 2.11 the information set out in Schedule 1 of these directions.

##### Schedule 1—Annual reporting requirements

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 D. RUSSELL-WEISZ, Chief Executive Officer.

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## INDUSTRIAL RELATIONS

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### IR401

#### WORK HEALTH AND SAFETY ACT 2020

#### WORK HEALTH AND SAFETY (CODE OF PRACTICE) NOTICE

Published under section 274(5) of the *Work Health and Safety Act 2020*.

#### 1. Citation

This notice may be cited as the *Work Health and Safety (Code of Practice) Notice (No. 1) 2022*.

#### 2. Revocation of code of practice

Notice is hereby given that I, the undersigned Minister for Industrial Relations, being the Minister charged with administration of the *Work Health and Safety Act 2020*, acting in exercise of the power conferred upon me by section 274(1) of the said Act, do hereby revoke the approval of the following code of practice—

- (i) *Code of Practice: Psychosocial Hazards in the Workplace, 2022* published in the *Government Gazette* on 11 February 2022.

#### 3. Approval of code of practice

Notice is hereby given that I, the undersigned Minister for Industrial Relations, being the Minister charged with administration of the *Work Health and Safety Act 2020*, acting in exercise of the power conferred upon me by section 274(1) of the said Act, do hereby approve the following code of practice—

- (ii) *Code of Practice: Psychosocial Hazards in the Workplace, 2022*.

#### 4. Commencement

This revocation and approval comes into force from the date of publication in the *Western Australian Government Gazette*.

**Note:** A copy of the approved code of practice referred to in this notice is available on the Department of Mines, Industry Regulation and Safety website [www.dmir.wa.gov.au](http://www.dmir.wa.gov.au). The code of practice can also be made available in alternative formats, upon request.

A copy of the revoked code of practice referred to in this notice is available for inspection (without charge) at the Department of Mines, Industry Regulation and Safety, WorkSafe Library, 1st floor, 303 Sevenoaks Street, Cannington, Western Australia.

Hon. BILL JOHNSTON, MLA, Minister for Industrial Relations.

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