



Queensland

This working draft is not yet settled. Work on the draft is ongoing and may result in substantial changes.

Health Legislation Amendment Bill (No. 3) 2025

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Health Legislation Amendment Bill (No. 3) 2025

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2025

A Bill

for

An Act to amend the *Assisted Reproductive Technology Act 2024* for particular purposes

WORKING DRAFT—AUGUST 2025

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Health Legislation Amendment Act (No. 3) 2025*.

2 Commencement

TBC

Drafting note—

It is intended that all clauses of the Health Legislation Amendment Bill (No. 3) 2025 (the *Bill*) that amend the *Assisted Reproductive Technology Act 2024* (the *ART Act*) will commence on assent of the Bill.

Some clauses of the Bill amend provisions of the ART Act that are in effect. The amendments to these provisions will take effect on the day the Bill is assented to.

Other clauses of the Bill amend provisions of the ART Act that are not yet in effect (*uncommenced provisions*). The amendments to the uncommenced provisions will appear in the ART Act on assent of the Bill, but will not take effect until the relevant uncommenced provision of the ART Act commences, on a day to be fixed by proclamation (see section 2 of the ART Act).

Part 2 **Amendment of Assisted
Reproductive Technology Act
2024**

3 **Act amended**

This part amends the *Assisted Reproductive Technology Act 2024*.

4 **Insertion of new s 16A**

After section 16—

insert—

16A Consent required for obtaining gamete

- (1) The consent of a gamete provider is required for obtaining, or attempting to obtain, a gamete from the gamete provider for use in an ART procedure or for storage for use in an ART procedure.
- (2) The consent of a gamete provider is not required for anything authorised under division 5.
- (3) The consent of a child includes the consent of a parent of the child or a person with parental responsibility for the child.
- (4) A reference in this section to a gamete provider includes, in relation to an attempt to obtain a gamete, a reference to the individual who would have been the gamete provider if the attempt to obtain the gamete had been successful.

5 **Amendment of s 18 (Consent of gamete provider in case of donated gametes or donated embryos)**

Section 18—

insert—

- (3A) Subsection (1) does not apply to the extent a

[s 6]

donated gamete or donated embryo is used in an ART procedure under an approval of the chief executive under section 25(1B) or 27(2).

6 Amendment of s 25 (Limit on number of donor-related Australian families)

Section 25—

insert—

- (1A) Subsection (1) does not apply if the ART provider has the written approval of the chief executive to use the donated gamete or donated embryo in the ART procedure.
- (1B) The chief executive may, on application by an ART provider, give an approval mentioned in subsection (1A) if the chief executive is satisfied—
 - (a) either—
 - (i) the gamete provider, or the gamete provider from whom a gamete used to create the embryo was obtained, has consented to the making of the application by the ART provider; or
 - (ii) the ART provider has been unable to contact the gamete provider, or the gamete provider from whom a gamete used to create the embryo was obtained, despite taking reasonable steps to do so; and
 - (b) there are reasonable grounds for using the donated gamete or donated embryo in the ART procedure, having regard to whether, in the circumstances, prohibiting the use of the gamete or embryo would be unfairly harsh for any person.

7 Amendment of s 27 (Time limit on use of donated gametes or embryos and their disposal)

Section 27(2), from ‘may’—

omit, insert—

may, on application by the ART provider, give an approval mentioned in subsection (1) if the chief executive is satisfied—

(a) either—

(i) the gamete provider, or the gamete provider from whom a gamete used to create the embryo was obtained, has consented to the making of the application by the ART provider; or

(ii) the ART provider has been unable to contact the gamete provider, or the gamete provider from whom a gamete used to create the embryo was obtained, despite taking reasonable steps to do so; and

(b) there are reasonable grounds for using the donated gamete or donated embryo in the ART procedure, having regard to whether, in the circumstances, prohibiting the use of the gamete or embryo would be unfairly harsh for any person.

Drafting note—

There is a technical drafting issue about how an undecided application made under section 27(2), during the period mentioned in section 27(1), relates to section 27(3).

Also, section 27 is being considered more broadly to ensure it operates effectively, including in relation to gametes, or gametes used to create an embryo, obtained before commencement.

[s 8]

8 Amendment of s 33 (Information to be collected about gamete providers)

- (1) Section 33(1)(a)(ii), from ‘residential’ to ‘email address’—
omit, insert—
contact information
- (2) Section 33(3)—
omit.
- (3) Section 33(5), ‘under’—
omit, insert—
mentioned in
- (4) Section 33—
insert—
 - (6) Despite subsection (4), the chief executive may, on application by an ART provider, approve the use of a gamete or embryo if the chief executive is satisfied—
 - (a) the ART provider has taken reasonable steps to collect the information mentioned in subsection (1) in relation to the gamete or a gamete used to create the embryo; and
 - (b) there are reasonable grounds for using the gamete or embryo, having regard to—
 - (i) the information the ART provider has collected; and
 - (ii) whether, in the circumstances, prohibiting the use of the gamete or embryo would be unfairly harsh for any person.
 - (7) If an approval is given under subsection (5) to an ART provider, the ART provider and any other provider to whom the gamete or embryo is supplied—

-
- (a) may use the gamete or embryo despite subsection (4); and
 - (b) is taken to have complied with subsection (1) in relation to the gamete, or a gamete used to create the embryo.
- (8) This section is not limited by, and does not limit, section 34.

Note—

See section 149A for the application of this section in relation to gametes obtained before 19 September 2024.

- (5) Section 33(4) to (8)—
renumber as section 33(3) to (7).

9 Amendment of s 34 (Transfer between ART providers of information about gametes or embryos)

- (1) Section 34(2)(a) and (b), ‘consents and other information’—
omit, insert—
information mentioned in subsection (3)
- (2) Section 34—
insert—
- (3) For subsection (2)(a) and (b), the information is—
- (a) the information mentioned in section 33(1) in relation to the gametes or gametes used to create the embryos; and
 - (b) any other consents or information in relation to the gametes or embryos.

10 Amendment of s 35 (Information to be collected about persons who undergo ART procedures)

Section 35(1)(b), from ‘residential address’ to ‘email address’—

[s 11]

omit, insert—
contact information

11 Amendment of s 36 (Keeping of records)

(1) Section 36(4)(b), from ‘name’ to ‘email address’—

omit, insert—
name and contact information

(2) Section 36—

insert—

(7) A reference in this section to an ART provider includes a reference to a person who was an ART provider.

12 Amendment of s 37 (Destruction of records prohibited)

(1) Section 37(2), from ‘that’ to ‘authorises’—

omit, insert—
for which the chief executive gives written approval

(2) Section 37(3), ‘authorise’—

omit, insert—
give written approval to

(3) Section 37—

insert—

(4) A reference in this section to an ART provider includes a reference to a person who was an ART provider.

13 Amendment of s 40 (Definitions for part)

Section 40, definition *contact information*—

omit.

14 Amendment of s 57 (Application for licence)

Section 57(2)(b)(iv), from ‘any’ to ‘regulation’—

omit, insert—

the name of each of the personnel, within the meaning of the relevant code of practice,

15 Amendment of s 61 (Chief executive to be notified of certain events)

(1) Section 61(1), table, item 8, column 1, from ‘any’ to ‘regulation’—

omit, insert—

any of the personnel, within the meaning of the relevant code of practice,

(2) Section 61(3), definition *serious adverse event*, ‘prescribed by regulation’—

omit, insert—

identified in the relevant code of practice

16 Amendment of s 65 (Public register of licensed providers)

Section 65(2)(d), from ‘names’ to ‘regulation’—

omit, insert—

name of each of the personnel, within the meaning of the relevant code of practice,

17 Amendment of s 138 (Executive officer may be taken to have committed offence against deemed executive liability provision)

Section 138(4), definition *deemed executive liability provision*, paragraph (c), ‘section 139(2)’—

[s 18]

omit, insert—

section 139(1)

18 Insertion of new pt 9, div 1, hdg

Before section 144—

insert—

**Division 1 Transitional provisions
commencing on 19
September 2024**

19 Insertion of new pt 9, div 2, hdg

After section 144—

insert—

**Division 2 Other transitional
provisions for Act No. 46 of
2024**

20 Insertion of new s 144B

Before section 145—

insert—

144B Meaning of *future ART procedure*

- (1) In this division, a *future ART procedure*, for a person, means a future ART procedure for any of the following persons—
- (a) the person;
 - (b) the person’s spouse;
 - (c) a surrogate of the person;
 - (d) a surrogate of the person’s spouse.

(2) In this section—

spouse means—

- (a) for a person mentioned in section 146(1)(a)—a spouse of the person at the time an ART provider allocated donated gametes for use by the person in ART procedures as mentioned in the section; or
- (b) for a person mentioned in section 147(1)(a)—a spouse of the person at the time an ART provider allocated a donated embryo for use by the person in ART procedures as mentioned in the section.

21 Amendment of s 146 (Donated gametes previously allocated to person for ART procedures)

(1) Section 146(1)—

omit, insert—

(1) This section applies if—

(a) before 19 September 2024—

- (i) an ART provider allocated donated gametes for use by a person in ART procedures; and
- (ii) the person, or a surrogate of the person, became pregnant as a result of the use of some of those donated gametes in an ART procedure; and

(b) after the commencement of this section, an ART provider proposes to use the remaining donated gametes in future ART procedures for the person.

(2) Section 146(2) and (3), ‘further ART procedures’—

omit, insert—

future ART procedures

[s 22]

22 Amendment of s 147 (Donated embryo previously allocated to a person for ART procedures)

(1) Section 147(1)—

omit, insert—

(1) This section applies if—

- (a) before 19 September 2024, an ART provider allocated a donated embryo for use by a person in an ART procedure; and
- (b) after the commencement of this section, an ART provider proposes to use the donated embryo in a future ART procedure for the person.

(2) Section 147(2) and (3), ‘ART procedure’—

omit, insert—

future ART procedure for the person

23 Amendment of s 148 (Embryo not yet used for ART procedure)

(1) Section 148(1)—

omit, insert—

(1) This section applies if—

- (a) before 19 September 2024, an embryo was created; and
- (b) after the commencement of this section, an ART provider proposes to use the embryo in an ART procedure for a person; and
- (c) the ART provider has not applied under section 25(1B) or 27(2) for approval to use the embryo; and
- (d) the embryo can not, but for this section, be used in an ART procedure for the person because of—

-
- (i) the period since the gamete used to create the embryo was obtained; or
 - (ii) the limit on the number of donor-related Australian families related to a donor of the gamete.
- (2) Section 148(2), ‘may authorise’—
- omit, insert—*
- may, on application by the ART provider,
approve

24 Insertion of new s 149A

After section 149—

insert—

149A Use of particular gametes obtained before 19 September 2024—collection of information

- (1) This section applies if—
 - (a) an ART provider obtained a gamete before 19 September 2024 for an ART procedure or for storage for a future ART procedure; and
 - (b) immediately before the commencement of this section, the gamete had not been used.
- (2) New section 33(4) applies in relation to the use of the gamete, or an embryo created using the gamete, for an ART procedure.
- (3) However, new section 33(4) does not prevent the use of the gamete, or an embryo created using the gamete, for an ART procedure if—
 - (a) the ART provider collected the information mentioned in new section 33(1) in relation to the gamete before the gamete was obtained; or
 - (b) the ART provider collects the information mentioned in new section 33(1) in relation

[s 25]

to the gamete before using the gamete, or an embryo created using the gamete, for the ART procedure; or

- (c) the chief executive approves the use of the gamete, or an embryo created using the gamete, for an ART procedure under new section 33(5).

- (4) In this section—

new, in relation to section 33, means section 33 of this Act as in force on the commencement of this section.

25 Renumbering and relocation of s 150 (Time within which information about pregnancies and births to be collected by ART providers)

Section 150—

renumber as section 144A and *relocate* to part 9, division 1, as numbered by this Act.

26 Insertion of new ss 152 and 153

After section 151—

insert—

152 Relationship of division with s 144

To the extent of any inconsistency between a provision of this division and section 144(1)(a), (c) or (d), the provision of this division prevails.

153 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this

section commences.

- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire on the day that is 2 years after the day this section commences.

27 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definition *contact information*—
omit.
- (2) Schedule 1—
insert—

contact information, for a person, means the person's residential address, phone number or email address or any other way the person may be contacted.

relevant code of practice means the code of practice prescribed by regulation to be the relevant code of practice.

Drafting note—

Additional transitional provisions will be drafted for inclusion in the Bill to ensure the *Assisted Reproductive Technology Act 2024* (the **ART Act**) operates as intended, including in relation to the following—

- an ART service provided before 19 September 2024;
- an ART procedure that took place before 19 September 2024;
- the effect of consent of a gamete provider given before 19 September 2024, for example, if the consent does not comply with requirements for consent that came into effect on 19 September 2024;
- how information collected by ART providers before 19 September 2024 is dealt with, for example, the extent to which it may be deemed to be information collected under the Act;

[s 27]

- the application of the limit on the number of donor-related Australian families, for example, to clarify that the limit includes related donor-conceived persons, and any children of the donor who were not donor-conceived, born before 19 September 2024;
 - the application of the time limit for the use of a donated gamete or a donated embryo, for example, to provide how the time limit applies to a gamete, or a gamete used to create the embryo, obtained before 19 September 2024, including gametes that, on the commencement of section 27 of the ART Act, will have been in storage for more than 15 years;
 - the application of requirements to keep records, and the obligation not to destroy records, of information collected before 19 September 2024;
 - the application of the requirement for an ART provider to notify the chief executive of a serious adverse event that has happened, or happens, before the commencement of section 61 of the ART Act;
 - to provide that section 138 of the ART Act operates as intended from 19 September 2024.
-