

# Information for donors on the Assisted Reproductive Technology Act 2007

## The Assisted Reproductive Technology Act 2007

In NSW a number of children are born every year as a result of ART treatment using donated gametes (sperm and ova). Until recently there was no process to support the disclosure of information about the people involved in this process and many gamete donors were anonymous. This has created a situation in which many individuals are unable to identify a biological parent and obtain information about their genetic heritage and background, which has been distressing for some and occasionally created medical and social dilemmas for both individuals and their parents.

The *Assisted Reproductive Technology Act 2007* (ART Act) and *Assisted Reproductive Technology Regulation 2014* (ART Regulation) were developed to address this issue and a range of other matters in the area of ART. The ART Act establishes an ART Central Donor Register (Register) to contain information about donors and children born as a result of ART treatment using donated gametes.

Since 1 January 2010, when the ART Act commenced, the anonymous donation of sperm and eggs is not allowed. ART providers are required to collect identifying and non-identifying information about a donor at the time of the donation and, once a child has been born as a result of ART treatment using the donated gametes, the ART provider must to provide information about the donor to the ART Central Donor Register.

Information on the Register, including identifying information about the donor, can be accessed by individuals conceived as a result of ART treatment using donated gametes once they turn 18 years of age.

## When did the Register start?

The Register started on 1 January 2010, when the ART Act commenced. Since that date where conception occurs as a result of ART treatment using donated gametes information about the donor will be included on the Register once a child is born.

The ART Act and Regulation also establishes a voluntary register to contain information about donors who donated gametes prior to 1 January 2010, and children born as a result of ART treatment using donated gametes prior to the commencement of the ART Act.

## What information is included on the Register?

The Register includes the following information about each donor:

- the donor's full name,
- the residential address of the donor,
- the date and place of birth of the donor,
- the ethnicity and physical characteristics of the donor,
- any medical history or genetic test results of the donor or the donor's family that are relevant to the future health of:
  - a person undergoing ART treatment involving the use of the donated gamete;
  - any offspring born as a result of that treatment;
  - any descendents of any such offspring;
- the name of each ART provider who has previously obtained a donated gamete from the donor and the date on which the gamete was obtained, and
- the sex and year of birth of each offspring of the donor.

The Register includes the following information about every child born as a result of ART treatment using donated gametes:

- the full name, sex and date of birth of the child,
- the name of the woman who gave birth to the child, and
- the full name and date and place of birth of the donor of the gamete.

The information on the Register reflects the circumstances of the donor, and any offspring of the donor, as at the time the donor donated his or her gametes, unless the donor or offspring provides updated information.

## **Who can access information on the Register?**

### **Adult donor conceived individuals are entitled to have access to:**

- a) the full name of the donor,
- b) the residential address of the donor,
- c) the date and place of birth of the donor,
- d) the ethnicity and physical characteristics of the donor,
- e) any medical history or genetic test results of the donor or the donor's family that are relevant to the future health of:
  - i) a person undergoing ART treatment involving the use of the donated gamete, or
  - ii) any offspring born as a result of that treatment, or
  - iii) any descendent of any such offspring,
- f) the name of the ART provider who provided the above; and
- g) the sex and year of birth of each other offspring of the donor.

### **Other adult offspring of the donor (not through donation) are entitled to have access to:**

- a) the sex and year of birth of each other offspring of the donor.

### **Parents of a child born through donation are entitled to have access to:**

- a) the ethnicity and physical characteristics of the donor,
- b) any medical history or genetic test results of the donor or the donor's family that are relevant to the future health of:
  - i) a person undergoing ART treatment involving the use of the donated gamete, or
  - ii) any offspring born as a result of that treatment, or
  - iii) any descendent of any such offspring,
- c) sex and year of birth of each other offspring of the donor.

### **The Donor is entitled to have access to:**

- a) the sex and year of birth of each offspring of the donor.

The information on the Register reflects the circumstances of the donor, and any offspring of the donor, as at the time the donor donated his or her gametes, unless the donor or offspring provides updated information.

## **Can donors provide additional information to the Register?**

Yes, a donor may, if he or she so chooses, provide updated and additional information to the Register at any time. This information can be accessed by offspring of the donor once they turn 18 years of age. Unless the donor or offspring provides updated or additional information the Register will reflect the circumstances of the donor, and any offspring of the donor, as at the time the donor donated his or her gametes.

## Are details included on the Register if gametes were donated before 1 January 2010?

The mandatory Register does not operate retrospectively. This means that the Register only holds information on donors who donated gametes after 1 January 2010 and children born using donated gametes who were conceived on or after 1 January 2010.

If you donated gametes before the commencement of the ART Act, being 1 January 2010, your information will only be included on the mandatory Register if:

- your ART provider has a record of all of the required information about you, including your consent given in accordance with the ART Act; and
- your gametes were used after 1 January 2010; and
- the use of your donated gametes resulted in the birth of a child.

If a child has been born as a result of ART treatment using your donated gametes and your information does not have to be included on the mandatory Register, you may wish to provide information about yourself to the voluntary donor register. More information about the voluntary donor register can be found in the brochure “The Voluntary Donor Register”.

Note that the *Status of Children Act 1996* (NSW) provides, in section 14(2), that a child born as the result of a fertilisation procedure using a donated sperm is presumed not to be the child of the man who provided the sperm unless the man is the husband (including de facto husband) of the woman who gave birth to the child, and section 14(3) of the same Act provides that a child born as the result of a fertilisation procedure using a donated ova is presumed not to be the child of the woman who provided the ova. Each of these presumptions is irrebuttable.

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