

AUSTRALIAN CUSTOMS NOTICE NO. 2003/24

Amendments to the Customs (Prohibited Exports) Regulations 1958 - export of human embryos

The following amendment to the *Customs (Prohibited Exports) Regulations 1958* (the Prohibited Exports Regulations) was notified in Gazette No. S99 of 27 March 2003.

On 27 February 2003, the *Customs (Prohibited Exports) Amendment Regulations 2003 (No. 1)* inserted an absolute prohibition on the exportation of human embryos from Australia into the Prohibited Exports Regulations (regulation 7 refers). Consequential amendments were also made to the export controls on certain human body fluids, organs and other tissue and Schedule 1AA of the *Customs Regulations 1926*.

On 27 March 2003, the absolute prohibition was replaced with an arrangement that would allow the Minister for Justice and Customs to grant permission for human embryos to be exported from Australia in certain cases. The Minister may give permission if he is satisfied that:

the embryo that is going to be exported will, if necessary to achieve her pregnancy, be implanted in the woman for whom it was created or donated to; or

the embryo is going to be exported for the purpose of being implanted in another woman in accordance with a certain type of agreement.

The agreement can only be a commercial agreement if the agreement was made or the negotiations for the agreement were entered into prior to 27 March 2003. An agreement will be a commercial agreement if it provides for any valuable consideration. If negotiations for an agreement were entered into on or after 27 March 2003, the Minister may give permission only if the agreement is not a commercial agreement. When applying for permission a copy of the agreement (or evidence of negotiations) must be provided.

A number of statements must be provided to the Minister with an application for permission to export embryos. The requirements relating to these statements can be found in regulation 7. Regulation 7 also sets out who can apply for permission and defines many of

the relevant terms. A person who is granted permission will be required to advise Customs of their intended departure at least 24 hours prior to leaving Australia. The person is to advise the Customs Office situated in the State from which they are departing Australia.

The regulations will cease to have effect on 26 March 2004. The legislative authority for the amendments is Customs (Prohibited Exports) Amendment Regulations 2003 (No 2) - Statutory Rule No 44.

Philomena Carnell

National Manager Cargo Branch for the Chief Executive Officer 3 April 2003