10 Application of other legislation

This Act does not limit or otherwise affect the operation of any of the following—

(a) the *Research Involving Human Embryos and Prohibition of Human Cloning for Reproduction Act 2003*;

(b) the *Surrogacy Act 2010*;

(c) the *Status of Children Act 1978*;

(d) the *Public Health Act 2005*.

11 Act binds all persons

(1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

(2) However, the State, the Commonwealth or another State can not be prosecuted for an offence against this Act.

Part 2 Regulation of assisted reproductive technology

Division 1 ART providers to be licensed

12 Requirement to be licensed

(1) A person must not provide an ART service unless the person is a licensed ART provider.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not advertise or hold out that the person is a licensed ART provider unless the person is a licensed ART provider.

Maximum penalty—200 penalty units or 2 years imprisonment.

13 Services to be performed or supervised by medical practitioners

An ART provider must ensure that any ART services provided by the provider are performed by, or under the supervision of, a medical practitioner.

Maximum penalty—400 penalty units or 2 years imprisonment.

Division 2 Information and counselling

14 Information for persons provided with ART services

(1) An ART provider must—

(a) inform a person referred to in column 1 of the following table about the matters stated opposite in column 2 before providing the person with an ART service stated opposite in column 3; and

(b) confirm that the person understands those matters before providing the service.

Maximum penalty—200 penalty units.

Column 1 Person	Column 2 Matters	Column 3 Service
person undergoing ART procedure that does not use donated gametes or donated embryo	basic matters	the ART procedure

Column 1 Person	Column 2 Matters	Column 3 Service
person undergoing ART procedure that uses donated gametes or donated embryo	extended matters	the ART procedure
intended parent if a surrogate undergoes ART procedure that uses donated gametes or donated embryo	extended matters	the ART procedure
person providing their gametes other than as donated gametes	basic matters	obtaining the gametes from the person for an ART procedure
person providing their donated gametes or donated embryo	extended matters	obtaining the gametes or embryo from the person for an ART procedure
person who has already provided their gametes, other than as donated gametes	extended matters	using the gametes, or an embryo created using the gametes, in an ART procedure as donated gametes or donated embryo

(2) In this section—

basic matters, for a person, means—

(a) the availability of counselling services for the person under section 15; and

(b) the effect of a gamete provider's consent under division 3, including how and when consent may be modified or withdrawn under that division; and

(c) any other matter prescribed by regulation.

extended matters, for a person, means—

(a) the provision of counselling services for the person under section 15; and

(b) the effect of a gamete provider's consent under division 3, including how and when consent may be modified or withdrawn under that division; and

(c) the ART provider's obligations in relation to collecting information about the person and their donor-conceived offspring; and

(d) the ART provider's obligations to keep and disclose information about the person and their donor-conceived offspring; and

(e) the person's rights to obtain information from the donor conception information register about themself, the donor-conceived offspring or other persons; and

(f) the rights of the donor-conceived offspring and other persons to obtain information about themselves from the donor conception information register; and

(g) any other matter prescribed by regulation.

15 Counselling services for persons provided with ART services

(1) An ART provider must provide counselling services under this section to a person who proposes to donate a gamete or an embryo for an ART procedure (including a person proposing to donate a gamete that was not originally obtained as a donated gamete).

Maximum penalty—50 penalty units.

(2) An ART provider must provide counselling services under this section—

(a) to a person proposing to undergo an ART procedure that uses donated gametes or a donated embryo and to any spouse of that person; and

(b) if a surrogate proposes to undergo an ART procedure that uses donated gametes or a donated embryo—to the intended parents.

Maximum penalty—50 penalty units.

(3) An ART provider must make counselling services available under this section to a person who proposes to undergo an ART procedure that does not use donated gametes or a donated embryo and to any spouse of that person.

Maximum penalty—25 penalty units.

(4) The counselling services are to be provided or made available before the gamete or embryo is donated or before the ART procedure is carried out (as the case requires).

(5) A regulation may prescribe the matters about which counselling is to be provided, the required qualifications for counsellors, the charging of fees for counselling services or other requirements relating to counselling services.

Division 3 Consent

16 ART provider to obtain consent

An ART provider must not do anything for which the consent of a person is required under this division unless it is done—

(a) with the prior written consent of the person; and

(b) in a way that is consistent with that consent.

Maximum penalty—200 penalty units.

Note—

See also section 26 for consent for use of gamete where gamete provider has died.

17 Consent of gamete provider except in case of donated gametes or donated embryos

(1) The following require the consent of a gamete provider, except in the case of a donated gamete or donated embryo—

(a) the use in an ART procedure of a gamete obtained from the gamete provider;

(b) the period for which an ART provider may store for use—

(i) a gamete obtained from the gamete provider; or

(ii) an embryo created with a gamete obtained from the gamete provider;

(c) the supply to another person (including to another ART provider) of—

(i) a gamete obtained from the gamete provider; or

(ii) an embryo created with a gamete obtained from the gamete provider;

(d) the export from Queensland of—

(i) a gamete obtained from the gamete provider; or

(ii) an embryo created with a gamete obtained from the gamete provider.

(2) The consent of a gamete provider is not required for anything authorised under division 5.

(3) The consent of a gamete provider expires if—

(a) 5 years have passed since the consent was given or was last confirmed under this section; and

(b) an ART provider has not confirmed the consent.

(4) However, the consent of a gamete provider to the use of a gamete after their death does not expire after the death of the gamete provider.

(5) The consent of a gamete provider is confirmed by an ART provider if—

(a) the ART provider receives a notice of confirmation from the gamete provider; or

(b) the ART provider has taken reasonable steps to confirm the consent.

(6) The consent of a gamete provider is not required to be confirmed by an ART provider—

(a) if the ART provider knows or reasonably believes that the gamete provider has died; or

(b) in any other circumstances prescribed by regulation.

(7) The consent, or the confirmation of consent, of a child includes the consent, or confirmation of consent, of a parent of the child or a person with parental responsibility for the child.

18 Consent of gamete provider in case of donated gametes or donated embryos

(1) The consent of a gamete provider is required for the use in an ART procedure of—

(a) a donated gamete obtained from the gamete provider; or

(b) a donated embryo created with a gamete obtained from the gamete provider.

(2) The consent of the gamete provider must include—

(a) the maximum number of families that may use the donated gametes or donated embryos, within the limit imposed by section 25; and

(b) the maximum period, within the limit imposed by section 27, for which the donated gametes or donated embryos may be stored for use; and

(c) any other matter prescribed by regulation.

(3) The consent of the gamete provider can not limit the use of the donated gamete or donated embryo in an ART procedure on the basis of a protected attribute of the persons who are provided with ART services.

(4) In this section—

protected attribute means an attribute on the basis of which the *Anti-Discrimination Act 1991* prohibits discrimination.

Example—

A gamete provider can not limit the use of donated gametes to an ART procedure for a married person or for a person of a particular ethnicity.

19 Consent of person undergoing ART procedure

(1) The consent of a person is required for an ART procedure that the person undergoes.

(2) A regulation may require consent for different cycles or other stages of an ART procedure.

20 Withdrawal or variation of consent

(1) The consent of a gamete provider under this division may be modified or withdrawn at any time until—

(a) for a donated gamete, other than a gamete that becomes a donated gamete only after being used to create an embryo—the gamete is placed in a person's body or an embryo is created from the gamete; or

(b) for a gamete used to create a donated embryo—the embryo is implanted in a person's body; or

(c) in any other case—the gamete, or an embryo created from the gamete, is placed or implanted in a person's body.

(2) A gamete provider may modify or withdraw consent by notice given to an ART provider who is, or has been, in possession of the gamete or embryo to which the consent relates.

(3) If an ART provider receives notice of the modification or withdrawal of a gamete provider's consent in relation to a gamete or an embryo it has supplied to another provider, it must give the other provider notice of the modification or withdrawal as soon as practicable.

Maximum penalty—200 penalty units.

(4) The consent of a person to an ART procedure may be modified or withdrawn at any time before the procedure is carried out.

21 Verification of identity of gamete provider

The requirements relating to the giving, modifying or withdrawing of consent under this division by a gamete provider include the ART provider concerned taking reasonable steps to verify the identity of the person purportedly giving, modifying or withdrawing consent as a gamete provider.

Division 4 Use of gametes and embryos

22 Use of gametes from close family members prohibited

(1) An ART provider must not use a gamete to create an embryo if the ART provider knows that the gamete provider is a close family member of the other person whose gamete is used to create the embryo.

Maximum penalty—400 penalty units or 2 years imprisonment.

(2) In this section—

close family member, of a person, means a parent, child, sibling (including half-sibling), grandparent or grandchild of the person from birth.

23 ART services for children prohibited

(1) An ART provider must not—

(a) carry out an ART procedure if the person undergoing the procedure is a child; or

(b) obtain a gamete from a child for use in an ART procedure.

Maximum penalty—400 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to an ART provider who obtains a gamete from a child if—

(a) a medical practitioner has certified that there is a reasonable risk of the child becoming infertile before becoming an adult; and

(b) the provider obtains the gamete for the purpose of storing it for the child's future use.

24 Sex selection prohibited

(1) An ART provider must not use a particular gamete or embryo, or carry out an ART procedure in a particular way, for the purpose of producing or attempting to produce a child of a particular sex.

Maximum penalty—240 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply if it is necessary for a child to be of a particular sex so as to reduce the risk of the transmission of a genetic abnormality or genetic disease to the child.

25 Limit on number of donor-related Australian families

(1) An ART provider must not use a donated gamete or donated embryo in an ART procedure if—

(a) it would result in more than 10 donor-related Australian families; and

(b) the provider knew that it would have that result or did not exercise due diligence to determine whether it would have that result.

Maximum penalty—400 penalty units or 2 years imprisonment.

(2) For subsection (1)(a), ***donor-related Australian families*** are—

(a) families that include a person born as a result of an ART procedure carried out in Australia using a gamete obtained from the same donor or using an embryo created from a gamete obtained from the same donor; and

(b) the family of the donor if the donor has a child who was born in Australia but was not donor-conceived.

(3) For subsection (1)(b), ***due diligence*** by an ART provider includes—

(a) searching the provider's records; and

(b) making reasonable inquiries of the donor; and

(c) if the provider has reason to believe that another ART provider in Australia has obtained a gamete or an embryo from the donor—requesting information from that other provider.

(4) An ART provider must, at the request of another ART provider who is undertaking due diligence for subsection (1)(b) in relation to a stated donor, give the other provider information it has about ART procedures, and donated gametes or donated embryos, that would be relevant to determining the number of donor-related Australian families in relation to the stated donor.

Maximum penalty—200 penalty units.

(5) For this section, a ***family*** comprises a parent, their spouse (if any) and their children.

(6) To remove any doubt, it is declared that—

(a) if a person has a former spouse—the person, the former spouse and the children of both the person and the former spouse comprise a separate family; and

(b) if a person has more than 1 spouse—the person, any other spouse and the children of the person and the other spouse comprise a separate family.

26 Use of gametes or embryos after death of gamete provider

(1) An ART provider must not use a gamete or an embryo in an ART procedure if the ART provider knows, or ought reasonably to know, that the gamete provider has died unless—

(a) the gamete provider has consented to the use of the gamete or embryo after their death; and

(b) the person who undergoes the ART procedure has consented to the use of the gamete or embryo after being notified that the gamete provider has died.

Maximum penalty—200 penalty units.

(2) If a surrogate undergoes the ART procedure, the consent of the intended parents and not the surrogate is required under subsection (1)(b).

(3) An ART provider must take reasonable steps to find out whether the gamete provider of any gamete or embryo that is to be used by the ART provider in an ART procedure is still alive if the gamete, or the gamete used to create the embryo, was obtained from the gamete provider more than 5 years before the ART procedure.

Maximum penalty—100 penalty units.

(4) Subsection (3) does not apply to an ART provider if—

(a) the ART provider (or another ART provider who supplied the gamete or embryo) had been contacted by the gamete provider less than 5 years before the ART procedure; or

(b) the ART provider knows or reasonably believes that the gamete provider is dead.

(5) For subsection (3), ***reasonable steps*** to find out whether a gamete provider is still alive include—

(a) making an inquiry as to whether the death of the gamete provider has been officially recorded in the Queensland register of deaths; and

(b) making other inquiries prescribed by regulation.

(6) An ART provider is authorised to make the inquiries referred to in subsection (5).

(7) This section does not apply to a gamete that was retrieved under division 5 and that is authorised under that division to be used in an ART procedure.

27 Time limit on use of donated gametes or embryos and their disposal

(1) An ART provider must not, without the written approval of the chief executive—

(a) use a donated gamete in an ART procedure if it was obtained from the gamete provider more than 15 years before the procedure; or

(b) use a donated embryo in an ART procedure if a gamete used to create the embryo was obtained more than 15 years before the procedure.

Maximum penalty—100 penalty units.

(2) The chief executive may give approval to the use of the donated gamete or donated embryo if satisfied there are reasonable grounds for doing so.

(3) An ART provider must dispose of any donated gamete or donated embryo in the provider's possession if this section prohibits the provider from using the donated gamete or donated embryo in an ART procedure.

Maximum penalty—100 penalty units.

Division 5 Retrieval and use of gametes from deceased or unresponsive persons

28 Interpretation for division

(1) A person is ***unresponsive*** if—

(a) the person's respiration or circulation of blood is being maintained in a hospital by artificial means; and

(b) a medical practitioner who is a designated officer for the hospital under the *Transplantation and Anatomy Act 1979*, section 6 has certified in writing that they have carried out a clinical examination of the person and that they are of the opinion that the person would die if the artificial means of respiration or circulation of blood was withdrawn.

(2) A gamete is used for a person's spouse if the gamete is used in an ART procedure for the spouse or for a surrogate of the spouse.

29 Retrieval of gametes from deceased or unresponsive persons

(1) A gamete may be retrieved from a deceased or an unresponsive person by, or under the supervision of, a medical practitioner for use in an ART procedure for the person's spouse.

(2) The retrieval of the gamete from the deceased or unresponsive person is authorised only if there is evidence that—

(a) the person had consented to the retrieval of their gametes for use in an ART procedure for their spouse; or

(b) the person—

(i) had not expressly objected to the posthumous use of their gametes for use in an ART procedure for their spouse; and

(ii) is likely to have supported the posthumous use of their gametes for that purpose.

(3) The gamete of a deceased or an unresponsive person that is retrieved under this division is not a donated gamete at the time of its retrieval.

30 Persons authorised to request retrieval of gamete

(1) The retrieval of a gamete from a deceased or an unresponsive person is not authorised under this division unless the retrieval is requested by—

(a) the spouse of the person; or

(b) in the exceptional circumstances described in subsection (2)—any member of the family of the person or spouse acting on behalf of the spouse.

(2) The exceptional circumstances are that an urgent decision must be made for the gamete to be successfully used in any future ART procedure and the spouse—

(a) is incapacitated and can not reasonably make an informed decision about the retrieval of the gamete; or

(b) can not be contacted despite reasonable attempts to do so.

31 Use of retrieved gametes

(1) An ART provider may use a gamete retrieved from a deceased or an unresponsive person under this division in an ART procedure for the person's spouse if its use has been authorised by an independent review body under this section.

(2) The independent review body is a body—

(a) that is constituted by 1 or more persons who are not engaged by the ART provider in providing ART services; and

(b) that complies with any requirement prescribed by regulation.

(3) The independent review body must consider the following matters when deciding whether to authorise the use of the retrieved gamete in an ART procedure—

(a) whether the spouse has the capacity to consent to the procedure;

(b) whether the spouse has undertaken appropriate counselling;

(c) the best interests of any child born as a result of the procedure, including—

(i) whether the spouse has the capacity to provide for the child's emotional, intellectual and other needs; and

(ii) whether the child is likely to have safe and stable living arrangements;

(d) any other matter the independent review body considers appropriate.

(4) A gamete that is retrieved from a deceased or an unresponsive person may be stored by the ART provider until the independent review body decides whether to authorise the use of the retrieved gamete.

32 Application of Transplantation and Anatomy Act 1979 and related provisions

(1) This division has effect despite anything to the contrary in the *Transplantation and Anatomy Act 1979*.

(2) In particular, the *Transplantation and Anatomy Act 1979*, part 3 does not apply to the retrieval of a gamete under this division.

(3) A gamete is not authorised to be retrieved from a deceased person under this division if the death is required by law to be reported to a coroner, or a coroner is investigating the death, unless—

(a) a coroner has given consent for the retrieval of the gamete; or

(b) a coroner has advised that a coroner's consent is not required.

(4) A designated officer for a hospital under the *Transplantation and Anatomy Act 1979*, section 6 must ensure that, as soon as practicable after a gamete is retrieved at the hospital from a dead or an unresponsive person under this division, the following is recorded in the person's hospital record—

(a) the retrieval of the gamete;

(b) the name of the person who requested the retrieval of the gamete and, if the person was not the spouse, the exceptional circumstances under which the person acted on behalf of the spouse in requesting the retrieval of the gamete.

Division 6 Information collection and record keeping

33 Information to be collected about gamete providers

(1) An ART provider must collect the following information before obtaining gametes for an ART procedure or for storage for future ART procedures—

(a) for all gametes—

(i) the gamete provider's full name; and

(ii) the gamete provider's residential address, phone number and email address; and

(iii) the gamete provider's date and place of birth; and

(iv) any other information prescribed by regulation;

(b) for donated gametes—

(i) the donor's ethnicity and physical characteristics; and

(ii) the donor's relevant medical history; and

(iii) the sex and year of birth of each offspring of the donor (whether or not donor-conceived); and

(iv) any other information prescribed by regulation.

Maximum penalty—200 penalty units.

(2) Subsection (1) applies to gametes whether or not they were obtained directly from the gamete provider.

(3) However, information obtained by an ART provider from another ART provider under section 34 is taken to have been collected under subsection (1).

(4) In the case of information about the offspring of a donor who were not donor-conceived, subsection (1) only requires an ART provider to take reasonable steps to collect that information.

(5) An ART provider must not use a gamete or an embryo unless the provider has collected the information under subsection (1) in relation to the gamete or to any gamete used to create the embryo.

Maximum penalty—200 penalty units.

34 Transfer between ART providers of information about gametes or embryos

(1) This section applies when an ART provider supplies gametes or embryos to another ART provider or receives gametes or embryos from another ART provider, whether the other provider provides ART services in or outside Queensland.

(2) The ART provider must—

(a) when supplying the gametes or embryos to the other ART provider—transfer to the other provider a copy of the consents and other information they have collected in relation to the gametes or embryos; and

(b) when receiving the gametes or embryos from the other provider—obtain from the other provider a copy of the consents and other information that the other provider has collected in relation to the gametes or embryos.

Maximum penalty—200 penalty units.

35 Information to be collected about persons who undergo ART procedures

(1) An ART provider must collect the following information about a person who undergoes an ART procedure—

(a) the person's full name;

(b) the person's residential address, phone number and email address;

(c) the person's date and place of birth;

(d) the full name and date of birth of any spouse of the person at the time of the procedure.

Maximum penalty—200 penalty units.

(2) If an ART provider uses a donated gamete or donated embryo in an ART procedure, the provider must take reasonable steps to collect the following information—

(a) whether a person became pregnant as a result of the procedure within 4 months after the procedure;

(b) whether a child was born as a result of the procedure within 15 months after the procedure and, if so, the child's full name, sex and date and place of birth.

Maximum penalty—200 penalty units.

36 Keeping of records

(1) An ART provider must keep the records required by this section for at least 99 years.

Maximum penalty—200 penalty units.

(2) An ART provider must keep a record of the following information about each gamete or embryo that is, or has been, in the provider's possession—

(a) the information the ART provider is required under this division to collect about the gamete or embryo before it

was obtained, including a copy of any information the provider receives from another ART provider under section 34 when the provider receives a gamete or an embryo from the other provider;

(b) the name of any other ART provider who has previously been in possession of the gamete or embryo, whether in or outside Queensland;

(c) each consent of the gamete provider under division 3 in relation to the gamete or embryo, including a copy of any consent the ART provider receives from another ART provider under section 34 when the provider receives a gamete or an embryo from the other provider;

(d) the uses to which the gamete or embryo has been put by the ART provider, including any supply of the gamete or embryo to another ART provider or other person, whether in or outside Queensland;

(e) the period during which the gamete or embryo has been in storage by the ART provider.

(3) An ART provider must keep a record of the following information about its ART procedures—

(a) the information the ART provider is required under this division to collect about the persons who undergo those procedures;

(b) for a procedure using a donated gamete or donated embryo—the place where the procedure was carried out.

(4) An ART provider must keep a record of the following information about each child the provider knows was born as a result of its ART procedures—

(a) the child's full name, sex and date and place of birth;

(b) the full name, residential address, phone number and email address of the person who gave birth to the child;

(c) if a donated gamete or donated embryo was used in the ART procedure—the donor's full name and date and place of birth.

(5) An ART provider must keep a record of any other information prescribed by regulation.

(6) However, this section does not prevent the destruction of records under section 37(3).

37 Destruction of records prohibited

(1) An ART provider or other person must not destroy—

(a) any record that the provider is required to keep under this division; or

(b) any record of information that is required to be provided to the registrar under section 46.

Maximum penalty—400 penalty units.

(2) Subsection (1) does not apply to any record that the chief executive authorises to be destroyed under subsection (3).

(3) The chief executive may, on application by an ART provider, authorise the provider to destroy any stated record of a kind referred to in this section if the chief executive is reasonably satisfied that the destruction of the record would not adversely affect any person.

Division 7 Disclosure of health information

38 Disclosure of health information by ART provider

(1) An ART provider may disclose health information in accordance with this section if a medical practitioner certifies that the disclosure of the information is necessary—

(a) to prevent or reduce a serious risk to someone's life or health; or

(b) to warn a person about the existence of a health condition that may be harmful to the person or to the person's descendants, including future descendants.

(2) The ART provider may disclose health information about a donor, or about a relative of a donor, to any of the following—

(a) a donor-conceived person born as a result of an ART procedure using a gamete donated by the donor;

(b) a descendant of a donor-conceived person born as a result of an ART procedure using a gamete donated by the donor;

(c) a parent of, or other person with parental responsibility for, a donor-conceived person born as a result of an ART procedure using a gamete donated by the donor;

(d) a person who is pregnant as a result of an ART procedure using a gamete donated by the donor or who is a spouse of the pregnant person;

(e) a person who has a gamete donated by the donor in storage with an ART provider;

(f) any other person prescribed by regulation.

(3) The ART provider may disclose health information about a donor-conceived person, or a relative of a donor-conceived person, to any the following—

(a) the donor;

(b) a donor-conceived sibling of the donor-conceived person who was born as a result of an ART procedure using a gamete from the same donor;

(c) a parent of, or other person with parental responsibility for, the donor-conceived sibling;

(d) a person who is pregnant as a result of an ART procedure using a gamete donated by the same donor or who is the spouse of the pregnant person;

(e) a person who has a gamete donated by the same donor in storage with an ART provider;

(f) any other person prescribed by regulation.

(4) A disclosure of health information under this section may also be made to a medical practitioner treating the person to whom the disclosure may be made.

(5) A disclosure of health information by an ART provider is to be made by a medical practitioner on behalf of the provider.

(6) This section does not require an ART provider to disclose health information.

(7) A medical practitioner who discloses health information under this section is to take reasonable steps to ensure that a person does not become aware that they are donor-conceived as a result of the disclosure of the health information.

39 Disclosure of health information by chief executive

(1) The chief executive may disclose health information to a person that an ART provider is authorised to disclose to the person under section 38 if—

(a) the ART provider who has the information has not disclosed the information; and

(b) a medical practitioner certifies that the disclosure of the information is necessary—

(i) to prevent or reduce a serious risk to someone's life or health; or

(ii) to warn a person about the existence of a health condition that may be harmful to the person or to the person's descendants, including future descendants; and

(c) the chief executive is satisfied that the disclosure of the information is reasonably necessary for a purpose referred to in paragraph (b).

(2) A disclosure of health information by the chief executive is to be made by a medical practitioner on behalf of the chief executive.

(3) This section does not require the chief executive to disclose health information.

Part 3 Donor conception information register

Division 1 Preliminary

40 Definitions for part

In this part—

approved way, of making an application or giving a notice, means a way that is—

(a) approved by the registrar; and

(b) published on the department's website or www.qld.gov.au.

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.

donor-conceived, in relation to a person, means a person born as a result of a donor conception ART procedure or a private donor conception procedure.

donor-conceived offspring, of a donor, means a donor-conceived person who was born using a donated gamete obtained from the donor.

donor-conceived siblings means any 2 persons—

(a) who are both donor-conceived persons; and

(b) who were both born using at least 1 gamete from the same donor.

donor conception ART procedure means an ART procedure carried out by an ART provider that uses a donated gamete or donated embryo.

donor's ID code means any number or other code used by an ART provider to identify the donor.

donor's profile information means any of the following information about a donor that has been collected and kept by an ART provider and that does not identify the name or the date of birth of the donor—

(a) information about the donor's hobbies or interests;

(b) information about the family history of the donor;

(c) information about the education of the donor;

(d) photos of the donor;

(e) correspondence of the donor;

(f) information about the psychological history of the donor that is not relevant medical history.

identifying information means information, other than contact information, that identifies the person to whom the information relates, and includes—

(a) a name of the person; and

(b) the date of birth of the person; and

(c) for information about a donor-conceived person—

(i) the place of birth of the person; and

(ii) the name of any ART provider who carried out the donor conception ART procedure and the place where the procedure was carried out.

non-identifying information means information, other than contact information, that does not identify the person to whom the information relates, and includes—

(a) for information about a donor—

(i) the donor's ID code; and

(ii) the donor's year and place of birth; and

(iii) the donor's ethnicity; and

(iv) the donor's physical characteristics; and

(v) the donor's relevant medical history; and

(vi) the place where the donor's gamete was obtained; and

(vii) the donor's profile information; and

(b) for information about a donor-conceived person—

(i) the year of birth of the person; and

(ii) the sex of the person.

private donor conception procedure means a self-insemination procedure using a donated gamete that was carried out in Queensland.

register means the donor conception information register maintained by the registrar for the purposes of this part.

relevant information, relating to the birth of a donor-conceived person, means the information stated in section 44.

41 Information relating to donor-conceived persons to which part applies

This part applies to information relating to a donor-conceived person who was born as a result of a donor conception ART procedure or a private donor conception procedure.

Division 2 Establishment and maintenance of register

42 Registrar to establish and maintain register

(1) The registrar must establish and maintain a register (the ***donor conception information register***) for the purposes of this part.

(2) The register—

(a) must contain the information required by division 3 to be included in the register; and

(b) may contain other information that is prescribed by regulation or that the registrar considers appropriate for inclusion in the register.

(3) The register may be wholly or partly—

(a) in the form of a computer database; or

(b) in documentary form; or

(c) in another form the registrar considers appropriate.

(4) The registrar must maintain the information in the register in a way that makes the information reasonably accessible.

(5) Despite the *Public Records Act 2002*, the registrar is to retain control over access to any information or records maintained under this part.

(6) The register is not a register under the *Births, Deaths and Marriages Registration Act 2023* and that Act does not authorise or require information that a person is donor-conceived to be recorded as a registrable event under that Act.

Division 3 Information held in register

43 Sources of information included in register

The registrar must include in the register—

(a) information provided to the registrar by ART providers under section 45; and

(b) historical information provided to the registrar by ART providers or others under section 46; and

(c) information voluntarily provided to the registrar by parties to a private donor conception procedure under section 47.

44 Relevant information to be included in register

(1) The information that is to be included in the register is relevant information provided to the registrar relating to the

birth of a donor-conceived person as a result of a donor conception ART procedure or a private donor conception procedure.

(2) Relevant information is the following—

(a) the donor's full name;

(b) the donor's contact information;

(c) the donor's date and place of birth;

(d) the donor's ethnicity and physical characteristics;

(e) the donor's relevant medical history;

(f) the donor's ID code;

(g) the place where the donor's gamete was originally obtained from the donor, if the information has been recorded and kept;

(h) any donor's profile information;

(i) the full name and date of birth of the person who gave birth to the donor-conceived person as a result of the procedure and the full name and date of birth of any spouse of that person at the time of the procedure;

(j) in the case of a procedure to which a surrogate was a party—the full name and date of birth of the intended parents;

(k) the full name, the date and place of birth and sex of the donor-conceived person born as a result of the procedure;

(l) the number of any donor-conceived siblings of the donor-conceived person, if the information has been recorded and kept;

(m) if the procedure was carried out by an ART provider—the name of the provider and the place where the procedure was carried out;

(n) any other information prescribed by regulation.

Note—

Section 42(2)(b) enables the registrar to include additional information in the register.

45 Mandatory provision of information by ART providers

(1) An ART provider must provide the registrar with all relevant information relating to the birth of a donor-conceived person after the commencement of this section as a result of a donor conception ART procedure carried out by the provider.

Maximum penalty—100 penalty units.

(2) The information is required to be provided under subsection (1) within 3 months after the ART provider becomes aware of the birth of the donor-conceived person.

46 Mandatory provision of historical information

(1) This section applies to information—

(a) that relates to the birth of a donor-conceived person before the commencement of section 45 as a result of a donor conception ART procedure carried out by an ART provider as part of an ART service; and

(b) that is relevant information.

(2) An ART provider must, within the period specified in subsection (4), provide the registrar with all the information to which this section applies that is in the provider's possession or control on the commencement of this section.

Maximum penalty—100 penalty units.

(3) If an ART provider had information to which this section applies in the provider's possession or control before the commencement of this section but is not in possession or control of the information on that commencement, the provider must notify the registrar, within the period specified in subsection (4), of the following—

(a) the name and contact details of the person to whom the provider gave possession or control of the information;

(b) if the information was lost, destroyed or otherwise not available—when, and the circumstances in which, the information was lost, destroyed or otherwise not available.

Maximum penalty—100 penalty units.

(4) The period specified for complying with subsection (2) or (3) is—

(a) the period of 6 months after the commencement of this section; or

(b) if the registrar is satisfied there is sufficient reason to extend the period—a longer period determined by the registrar on application or on the registrar's own initiative.

(5) The registrar may, by notice to any of the following persons, require the person to provide the registrar, within the period specified in the notice, with all the information to which this section applies that is in their possession or control—

(a) a person named by an ART provider under subsection (3)(a) as a person to whom it gave possession or control of the information;

(b) a person whom the registrar otherwise reasonably believes has possession or control of the information.

(6) A person who is given a notice under subsection (5) must comply with the notice.

Maximum penalty—100 penalty units.

(7) To remove any doubt, it is declared that for this section an ART provider includes—

(a) a person who is no longer an ART provider but who had been an ART provider before the commencement of this section; and

(b) a medical practitioner who carried out donor conception ART procedures before the commencement of this section as part of their medical practice.

47 Voluntary provision of information by parties to private donor conception procedures

(1) The parties to a private donor conception procedure may provide the registrar with all or any relevant information relating to the birth of a donor-conceived person as a result of the procedure.

(2) The parties to a private donor conception procedure are the donor of any gamete used in the procedure and the parents of the donor-conceived person.

(3) The provision of information to the registrar requires—

(a) the written consent of all the parties to the procedure; or

(b) if any party has since died—the written consent of all the remaining parties to the procedure and evidence of the death of that party.

(4) Evidence that a party to the procedure has since died is a relevant statutory declaration by the remaining parties or any other evidence authorised by regulation.

Division 4 Disclosure of information in register

48 Persons who may access information in register

(1) A person referred to in column 1 of the following table may apply to the registrar in the approved way for—

(a) all or any of the information in the register stated in column 2 opposite the person; or

(b) all or any of the information in the register about themself.

(2) The registrar must provide the information requested by the applicant if—

(a) the registrar is reasonably satisfied the information is of a kind that can be provided to the applicant under the following table; and

(b) the registrar is reasonably satisfied of the identity of the applicant and of the relevant link between the applicant and the person whose information has been requested.

(3) If column 2 provides that particular information can only be provided with the consent of a person, the information can only be provided by the registrar if consent has been given by the person in accordance with section 49.

(4) When dealing with an application, the registrar must advise the applicant of available counselling services that are provided by counsellors with experience in dealing with donor conception.

Column 1 **Applicant**	**Column 2** **Information that can be provided**
Donor-conceived person who is 16 years or older	*donor information* • identifying or non-identifying information about the donor • contact information about the donor (but only with the consent of the donor) *donor-conceived sibling information* • identifying information or contact information about a donor-conceived sibling of the applicant (but only with the consent of the sibling) • non-identifying information about a donor-conceived sibling of the applicant (including information about the number of donor-conceived siblings of the applicant)

Column 1 **Applicant**	**Column 2** **Information that can be provided**
Donor	*donor-conceived offspring information* • identifying information or contact information about a donor-conceived offspring of the donor (but only with the consent of the offspring) • non-identifying information about a donor-conceived offspring of the donor
Parent of a donor-conceived person of any age or another person with parental responsibility for a donor-conceived person under 16 years	*donor information* • identifying information or contact information about the donor (but only with the consent of the donor) • non-identifying information about the donor *donor-conceived sibling information* • identifying information or contact information about a donor-conceived sibling of the donor-conceived person (but only with the consent of the sibling) • non-identifying information about a donor-conceived sibling of the donor-conceived person (including information about the number of donor-conceived siblings of the donor-conceived person)

Column 1 **Applicant**	**Column 2** **Information that can be provided**
Descendant, who is 16 years or older, of a donor-conceived person	*donor information* • identifying or non-identifying information about the donor • contact information about the donor (but only with the consent of the donor) *donor-conceived sibling information* • identifying information or contact information about a donor-conceived sibling of the donor-conceived person (but only with the consent of the sibling) • non-identifying information about a donor-conceived sibling of the donor-conceived person (including information about the number of donor-conceived siblings of the donor-conceived person)
Interstate donor-conceived person who is 16 years or older (being a person born as a result of a donor conception ART procedure, or a private donor conception procedure, carried out in Australia but outside Queensland)	*donor-conceived sibling information* • identifying information or contact information about a donor-conceived sibling of the person (but only with the consent of the sibling) • non-identifying information about a donor-conceived sibling of the person (including information about the number of donor-conceived siblings of the person)

Column 1 Applicant	Column 2 Information that can be provided
Offspring of a donor who is not a donor-conceived person and who is 16 years or older	*donor-conceived sibling information* • identifying information or contact information about a donor-conceived sibling of the donor offspring (but only with the consent of the sibling) • non-identifying information about a donor-conceived sibling of the donor offspring (including information about the number of donor-conceived siblings of the donor offspring)

49 Consent to provision of information

(1) The consent of a person to the provision of information—

(a) may be given in advance of applications for the provision of the information; and

(b) must be given by notice to the registrar in the approved way; and

(c) must state the kind of information that may be provided and the category of applicants to whom it may be provided; and

(d) in the case of consent to the provision of contact information—may specify how contact is to be made; and

(e) must be recorded in the register; and

(f) may be varied or revoked by the person by notice to the registrar in the approved way.

(2) A person whose consent to the provision of information is required may give the registrar notice in the approved way that they do not consent to the provision of the information to any applicant.

(3) If an application is made for information that requires the consent of a person and that person has not given consent, the registrar must not attempt to contact the person to inquire whether the person consents to the provision of the information to the applicant.

(4) However, if a donor-conceived person applies for contact information about the donor and the donor has not given consent, the registrar may take reasonable steps to contact the donor to provide the donor with the opportunity to give that consent, unless the donor has given the registrar notice that they do not consent to the provision of their information to any applicant.

50 Notification of provision of information

(1) If the registrar has provided information that requires the consent of a person, the registrar must take reasonable steps to notify the person that the registrar has provided the information to another person.

(2) If the registrar has provided identifying information about a donor that does not require the consent of the donor, the registrar must take reasonable steps to notify the donor that the registrar has provided the information to another person.

(3) The registrar must not, when notifying a person under this section, identify the other person to whom the information has been provided unless the other person has consented to their identity being disclosed.

(4) This section does not apply if the person concerned has notified the registrar in the approved way that they do not wish to be notified.

51 Provision of statistical and other non-identifying information to authorised entities

(1) The registrar may, on application by an authorised entity, provide the entity with statistical or other non-identifying information in the register.

(2) The registrar must maintain and publish a written statement of the policies relating to the provision of information to entities under this section.

(3) In this section—

authorised entity means an entity that is authorised for this section by regulation or by the policies maintained by the registrar under subsection (2).

Division 5 Miscellaneous provisions relating to register

52 Accuracy of register

(1) The registrar may correct the register—

(a) on application by a person whose information is in the register; or

(b) on the registrar's own initiative.

(2) A person can not make an application for the removal of identifying or other information that is required to be included in the register.

(3) The registrar must correct the register on the order of a Queensland court or QCAT.

(4) The registrar is not, despite the *Information Privacy Act 2009* or any other law, required to ensure that the information in the register is accurate and complete.

53 Protection from liability for persons providing historical information and disclosure of information

(1) A person who, acting honestly and reasonably, provides information under section 46—

(a) is not liable, civilly, criminally or under an administrative process, for providing the information; and

(b) can not, merely because the person provides the information, be held to have—

(i) breached any code of professional etiquette or ethics; or

(ii) departed from accepted standards of professional conduct.

(2) Without limiting subsection (1)—

(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath, or rule of law or practice, the person—

(i) does not contravene the Act, oath or rule of law or practice by providing the information; and

(ii) is not liable to disciplinary action for providing the information.

(3) Subsections (1) and (2) do not affect any liability for an offence against this Act or any obligation to provide information under this part.

(4) Any information that a person is required to provide to the registrar under this part is required to be provided even though—

(a) the person to whom the information relates has not consented to the disclosure of the information; or

(b) the ART service to which the information relates was provided at a time when an Act or law or any applicable clinical guidelines or codes of practice precluded the disclosure of the information.

54 Inquiries by registrar relating to information in register

(1) The registrar may conduct an inquiry to find out—

(a) whether information provided to the registrar under this part is correct; or

(b) whether an ART provider or other person has provided all relevant information that the provider or other person is required to provide to the registrar under this part.

(2) The registrar may, for the purpose of an inquiry, by notice to an ART provider or other person who provided or is required to provide relevant information to the registrar, require the provider or other person to answer specified questions or provide other information within a time and in a way stated in the notice.

(3) The ART provider or other person must comply with the notice unless the provider or other person has a reasonable excuse.

Maximum penalty—50 penalty units.

(4) The registrar may, for the purpose of an inquiry, use information recorded in a register under the *Births, Deaths and Marriages Registration Act 2023*.

(5) If an application is made to the registrar for information in the register but the register does not contain the information or the information is incomplete, the registrar may share confidential or other information with an ART provider for the purpose of obtaining relevant information for inclusion in the register.

55 Unauthorised access to or interference with register

(1) A person must not, without lawful authority—

(a) access the register or information in the register; or

(b) make, alter or delete any information in the register; or

(c) interfere with the register in any other way.

Maximum penalty—100 penalty units.

(2) Without limiting subsection (1), a person has lawful authority to do something mentioned in that subsection if—

(a) the person is doing the thing to carry out a function under this Act or another Act; or

(b) the registrar has authorised the person to do the thing.

(3) A person must not use or disclose information that the person knows has been obtained from the register in contravention of subsection (1).

Maximum penalty—100 penalty units.

56 External review of registrar's decisions

(1) This section applies to a decision of the registrar on an application made by a person under this part—

(a) for information in the register on a matter (but only if there is information in the register on that matter); or

(b) for the correction of information in the register about the person.

(2) The person may apply to QCAT for a review of the decision if—

(a) the decision is not the decision sought by the person; and

(b) the person is dissatisfied with the decision.

Part 4 Licensing of ART providers

57 Application for licence

(1) A person may apply to the chief executive for a licence if—

(a) the person has RTAC accreditation; and

(b) the person is not completely prohibited from providing ART services by a prohibition notice under section 63; and

(c) the person satisfies any other requirement prescribed by regulation.

(2) The application must—

(a) be in the approved form; and

(b) include the following—