

|  |
| --- |
| 2022-2023 fines and penalties for Assisted Reproductive Treatment Act 2008 |
| OFFICIAL |

This document is an annually updated publication of the indexation of fines and penalties for the reference of the general public.

# Assisted Reproductive Treatment Act 2008

| Assisted Reproductive Treatment Act 2008, Section  | Description | 2021-2022 Penalty amount  | 2022-2023 Penalty amount |
| --- | --- | --- | --- |
| 7 Assisted reproductive treatment | A person may only carry out assisted reproductive treatment if— (a) the person— (i) is a doctor who is carrying out the treatment on behalf of a registered ART provider; or (ii) is carrying out the treatment under the supervision and direction of a doctor who is carrying out the treatment on behalf of a registered ART provider; and (b) the person is satisfied that the requirements of Divisions 2, 3 and 4 have been met. | $87,235 | $88,762 |
| 8 Artificial insemination | A person may carry out artificial insemination of a woman only if the person— (a) (i) is a doctor or (ii) carries out the artificial insemination under the supervision and direction of a doctor who is carrying out the treatment on behalf of a registered ART provider; and (b) is satisfied the requirements of Divisions 2, 3 and 4 have been met. | $87,235 | $88,762 |
| 26(1) Procedures involving gametes produced by children | A person must not use, for a treatment procedure— (a) gametes produced by a child; or (b) an embryo formed from gametes produced by a child. | $43,618 | $44,381 |
| 26(3) Procedures involving gametes produced by children  | A person must not use gametes obtained under subsection (2)— (a) in the treatment of another person, including a relative of the child; or (b) for research purposes; or (c) after the death of the person who produced the gametes | $43,618 | $44,381 |
| 27(1) Ban on certain procedures | A person must not carry out a treatment procedure— (a) using sperm produced by more than one person or oocytes produced by more than one person; or (b) in which more than one embryo is used if the gametes from which each embryo is formed are not produced by the same two people. | $43,618 | $44,381 |
| 28(1) Ban on sex selection | A person carrying out a treatment procedure must not use gametes or an embryo, or perform the procedure in a particular way, with the purpose or a purpose of producing or attempting to produce a child of a particular sex. | $43,618 | $44,381 |
| 29(1) Ban on using donated gametes to produce more than 10 families | A person must not carry out a treatment procedure using gametes, or an embryo formed from gametes, produced by a donor if the person knows the treatment procedure may result in more than 10 women having children who are genetic siblings, including the donor and any current or former partner of the donor. | $43,618 | $44,381 |
| 30 Ban on destructive research on embryos created for treatment purpose | A person must not carry out research, outside the body of a woman, involving the use of an embryo— (a) if the embryo is unfit for transfer to a woman; or (b) in the case of an embryo which is fit for transfer to a woman, if the research would— (i) harm the embryo; or (ii) make the embryo unfit for transfer to a woman; or (iii) reduce the likelihood of a pregnancy resulting from the transfer of the embryo. | $87,235 | $88,762 |
| 31(1) Storing gametes | A person must not cause or permit gametes to remain in storage except as permitted by section 31B— (a) if the person knows that the person who produced the gametes has asked for those gametes to be removed; or (b) in any other case, after the end of the latest of the following periods— (i) 10 years; or (ii) if the gametes have been obtained under section 26(2) from a child, 20 years; or (iii) if the gametes have been produced by a person in respect of whom a certification has been made under subsection (2), 20 years; or (iv) if the Patient Review Panel has given written approval under section 31A for a longer or further storage period, the approved period | $43,618 | $44,381 |
| 31B(3) Time for removal of gametes from storage | A person must not use gametes kept in storage under subsection (1) or (2), unless the use by the person consists only of— (a) storage of the gametes; or (b) removal of the gametes from storage. | $43,618 | $44,381 |
| 32(1) Prohibition on storing embryos except in particular circumstances | A person must not cause or permit an embryo to be placed or remain in storage except as permitted by section 34A | $43,618 | $44,381 |
| 33(2) Storing embryos for later transfer | A registered ART provider must not cause or permit the embryo to remain in storage except as permitted by section 34A (a) if one of the persons who produced the gametes used to form the embryo has specified a storage period of less than 5 years, after that period; or (b) in any other case, after the latest of the following days— (i) the day that is 5 years after the day the embryo was placed in storage; (ii) if the persons who produced the gametes from which the embryo has been formed consent to storage for a period of not more than 5 years in addition to the period referred to in subparagraph (i), the day that is the end of that additional period; (iii) if the Patient Review Panel gives approval under section 33A for a longer or further period of storage, the day that is the end of the period approved by the Panel. | $43,618 | $44,381 |
| 34(1) Removal of embryos from storage | A registered ART provider must not remove an embryo from storage, or cause or permit an embryo to be removed from storage, unless— (a) it is to be used, in accordance with this Act, in a treatment procedure; or (b) written consent to its removal has been given to a designated officer of the registered ART provider by both of the persons who produced the gametes from which the embryo is formed; or (c) the persons who produced the gametes from which the embryo is formed are unable to agree on the period for which the embryo is to be stored and the Patient Review Panel has directed that the embryo be removed; or (d) it is required to be removed by reason of the operation of section 33(2). | $87,235 | $88,762 |
| 34(2) Removal of embryos from storage | A person who removes from storage an embryo that is not to be used for a treatment procedure must ensure that— (a) it is not removed from its container, other than for the sole purpose of observing the embryo; and (b) it is disposed of in accordance with the regulations. | $43,618 | $44,381 |
| 34A(3) Time for removal of embryos from storage | A person must not use an embryo kept in storage under subsection (1) or (2) unless the use by the person consists only of— (a) storage of the embryo; or (b) removal of the embryo from storage. | $43,618 | $44,381 |
| 35 Formation of embryos | A person must not knowingly or recklessly form or attempt to form an embryo outside the body of a woman unless the person— (a) is a doctor or scientist who provides services on behalf of a registered ART provider; and (b) forms the embryo in the course of providing services for the registered ART provider. | $87,235 | $88,762 |
| 36(1) Moving donated gametes and embryos into and out of Victoria | A person must not— (a) bring donor gametes, or an embryo produced from donor gametes, into Victoria; or (b) take donor gametes, or an embryo produced from donor gametes, from Victoria | $43,618 | $44,381 |
| 36(5) Moving donated gametes and embryos into and out of Victoria | A person given an approval under this section must comply with any condition imposed by the Authority on the approval. | $43,618 | $44,381 |
| 37(6) Exemption | A person granted an exemption under this section must comply with any condition imposed by the Authority on the exemption. | $43,618 | $44,381 |
| 38 False or misleading information | A person must not knowingly or recklessly give false or misleading information or omit to give material information— (a) in an application, consent or request under this Act; or (b) with respect to the giving of information that is required— (i) to be given under this Act; or (ii) to be included in a register, record or notice under this Act. | $9,087 | $9,246 |
| 44(1) Surrogacy costs | A surrogate mother must not receive any material benefit or advantage as a result of a surrogacy arrangement | $43,618 | $44,381 |
| 45(1) Prohibition on certain publications | A person must not publish, or cause to be published, a statement, advertisement, notice or document— (a) to the effect that a person is or may be willing to enter into a surrogacy arrangement; or (b) to the effect that a person is seeking another person who is or may be willing to enter into a surrogacy arrangement or to act as a surrogate mother or to arrange a surrogacy arrangement; or (c) to the effect that the person is or may be willing to arrange a surrogacy arrangement; or (d) to the effect that a person is or may be willing to accept any benefit under a surrogacy arrangement, whether for himself or herself or for another person; or (e) that is intended or likely to counsel or procure a person to agree to act as a surrogate mother; or (f) to the effect that a person is or may be willing to act as a surrogate mother. | $43,618 | $44,381 |
| 49(1) Register to be kept by registered ART providers | A registered ART provider must keep a register that includes the prescribed information in relation to the following— (a) the donors of gametes and embryos kept or stored by the registered ART provider; (b) the destruction or disposal by the registered ART provider of any gametes or an embryo formed outside the body of a woman; (c) any human embryo kept or stored by the registered ART provider that becomes an excess ART embryo; (d) each woman on whom the registered ART provider carries out a treatment procedure and the woman's partner, if any; (e) any treatment procedure carried out on a woman by the registered ART provider; (f) the use of gametes or an embryo in a treatment procedure carried out by the registered ART provider; (g) any gametes or an embryo transferred between— (i) the registered ART provider and another registered ART provider; or (ii) the registered ART provider and a doctor; (h) the collection and storage of gametes or an embryo by the registered ART provider; (i) the consents and withdrawals of consent to the storage and removal from storage of gametes or an embryo by the registered ART provider; (j) the bringing into or taking out of Victoria of any gametes or an embryo that have been or are stored or kept by the registered ART provider; (k) each consent or withdrawal or lapsing of consent given under this Act for a treatment procedure by the registered ART provider; (l) if the registered ART provider reimburses a donor for costs actually incurred by the donor in respect of a donation made to the registered ART provider, details of the reimbursement; (m) the outcome of a treatment procedure including particulars of— (i) a confirmed pregnancy resulting from a treatment procedure; and (ii) the miscarriage of a pregnancy resulting from a treatment procedure; (n) a person born as a result of a treatment procedure, including particulars of the birth of the person. | $9,087 | $9,246 |
| 49(2) Register to be kept by registered ART providers | A designated officer of a registered ART provider must ensure that any information required, by a condition of registration imposed by the Authority, to be recorded in the register kept by the provider under subsection (1) is recorded in the register. | $9,087 | $9,246 |
| 51(1) Information to be given to the Authority by registered ART providers | Each registered ART provider must, not later than 1 July in each year, give to the Authority the information specified in subsection (2) about the following— (a) the birth of each person born as a result of a donor treatment procedure carried out by the registered ART provider, and that is known to the registered ART provider, within the preceding financial year; (b) each pregnancy that has occurred as a result of a donor treatment procedure carried out by the ART provider, and that is known to the registered ART provider, within the preceding financial year; (c) in the circumstances specified in writing by the Authority, each donor treatment procedure carried out by the registered ART provider in the preceding financial year, if the outcome of that procedure is not known by the provider. | $1,817 | $1,849 |
| 55(3) Information recorded by registered ART providers that is to be given to donors | On receiving a request for information under subsection (2), the designated officer must disclose to the donor, in accordance with subsection (4)— (a) the information in the registered ART provider's register about the woman and her partner, if any, other than identifying information about the woman or her partner; and (b) any identifying information in the registered ART provider's register about the woman or her partner, if any, if the woman and her partner have consented to the disclosure. | $9,087 | $9,246 |
| 55A(3) Information recorded by doctors that is to be given to donors  | On receiving a request for information under subsection (2), the doctor must disclose to the donor, in accordance with subsection (4)— (a) the information in the doctor's register about the woman and her partner, if any, other than identifying information about the woman or her partner; and (b) any identifying information in the doctor's register about the woman or her partner, if any, if the woman and her partner have consented to the disclosure. | $9,087 | $9,246 |
| 56C(1) Offence to disclose that Authority has requested records—pre-1988 donor treatment procedures | A person who receives a request from the Authority under section 56B(2) must not disclose, whether directly or indirectly, to any other person that the Authority has made that request unless— (a) the disclosure is reasonably necessary for the purposes of locating the records that are the subject of the request; or (b) the disclosure is made to the person to whom the requested records relate | $9,087 | $9,246 |
| 56H(1) Failure to comply with production order | A person against whom a production order has been made and who has been served with the order must not, without reasonable excuse, fail to comply with the order. | $9,087 | $9,246 |
| 56K(1) Offence to disclose that Authority has requested additional information relating to donor or donor treatment procedures | A person who receives a request from the Authority under section 56J(2) must not disclose, whether directly or indirectly, to any other person that the Authority has made that request unless— (a) the disclosure is reasonably necessary for the purposes of locating the information that is the subject of the request; or (b) in the case of records, the disclosure is made to the person to whom the requested records relate. | $9,087 | $9,246 |
| 63(3) Disclosure of information if pre-1998 donor deceased or not located | An applicant who gives an undertaking under subsection (2)(a) must not knowingly contact the pre-1998 donor unless the contact is a continuation of, or a similar kind to, contact that the applicant had with the donor before the applicant made the application. | $9,087 | $9,246 |
| 63G(2) Undertaking required from applicant for identifying information relating to pre-1998 donors | An applicant who gives an undertaking under subsection (1) must not knowingly contact the pre-1998 donor in contravention of the contact preference or the amended contact preference unless the contact is a continuation of, or of a similar kind to, contact that the applicant had with the donor before the applicant knew of the contact preference or the amended contact preference (as the case requires). | $9,087 | $9,246 |
| 63O(2) Undertaking required from applicant for identifying information relating to person born as a result of a donor treatment procedure | An applicant who gives an undertaking under subsection (1) must not knowingly contact the person born as a result of the donor treatment procedure in contravention of the contact preference or the amended contact preference unless the contact is a continuation of, or of a similar kind to, contact that the applicant had with the person before the applicant knew of the contact preference or the amended contact preference (as the case requires). | $9,087 | $9,246 |
| 66A(1) Confidentiality of information on the Central Register | A member of the Authority or a person employed or engaged by the Authority or an organisation authorised under section 67B must not disclose to any person, whether directly or indirectly, any information recorded in the Central Register. | $9,087 | $9,246 |
| 66B(1) Confidentiality of other information provided to the Authority under this Part | A member of the Authority or a person employed or engaged by the Authority or an organisation authorised under section 67B must not disclose to any person, whether directly or indirectly, any information obtained under section 52B, 56A(2), 56B or 56J or under a production order that cannot be included on the Central Register under section 54A. | $9,087 | $9,246 |
| 66C(1) Confidentiality of information on the Central Register disclosed by the Authority | If the Authority has disclosed information recorded on the Central Register to a person, that person must not disclose the information that was disclosed to the person by the Authority to any other person, whether directly or indirectly. | $9,087 | $9,246 |
| 78(2) Offence of failing to notify authority if RTAC accreditation no longer held | The person must immediately give the Authority written notice that the person no longer holds the accreditation. | $43,618 | $44,381 |
| 80(1) Designated officers for registered ART providers | A registered ART provider must ensure that at all times a designated officer is appointed, employed or engaged by the provider. | $9,087 | $9,246 |
| 120 Offence to obstruct or hinder | A person must not obstruct or hinder a member of the Authority in exercising the member's powers or duties under section 119. | $9,087 | $9,246 |
| 121 Prohibition on destruction of or tampering with documents | A person must not destroy, remove, cancel or tamper with a document required to be kept by or under this Act or the regulations unless authorised by this Act or the regulations to do so | $9,087 | $9,246 |
| 140(2) Initial provision of information on register of pre-1988 donor treatment procedures | The registered ART provider must, within 6 months of the relevant day, give to the Registrar a copy of the register required to be kept under section 49A | $1,817 | $1,849 |
| 141(2) Registrar must provide Authority with copy of Central Register | A member of the Authority or a person employed or engaged by the Authority must not, before the commencement of section 10 of the Assisted Reproductive Treatment Amendment Act 2016, disclose to any person, whether directly or indirectly, any information provided to the Authority under subsection (1). | $9,087 | $9,246 |

|  |
| --- |
| To receive this document in another format, phone 1300 650 172, using the National Relay Service 13 36 77 if required, or email Fees and Penalties <feesandpenalties@dhhs.vic.gov.au>Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.© State of Victoria, Australia, Department of Health, April 2023.Available at [Fees, charges and penalties webpage](https://www.health.vic.gov.au/payments/fees-charges-and-penalties-subject-to-automatic-indexation) <https://www.health.vic.gov.au/payments/fees-charges-and-penalties-subject-to-automatic-indexation> |