

# Guidelines for individuals seeking to import or export donor sperm, donor eggs and embryos produced using donor sperm and/or eggs

**ART**

## When is VARTA's approval required?

The *Assisted Reproductive Treatment Act 2008 (Vic)* (the Act) states that donor sperm, donor eggs or embryos produced using donor sperm and/or eggs (embryos) must not be taken into or out of Victoria without the written approval of the Victorian Assisted Reproductive Treatment Authority (VARTA). This means that individuals who wish to move donated eggs, sperm or embryos into or out of Victoria must apply to VARTA for approval. Approval is not required to import or export a person's own eggs, sperm or embryos.

## Who are these guidelines intended for?

These guidelines relate to applications by individuals. VARTA can also approve class applications made by clinics on behalf of a group of recipients. Please refer to our **Guidelines for class applications to import donor gametes from an overseas sperm or egg bank** further information.

## How to apply

The process for seeking approval to import or export donor sperm, eggs or embryos involves these steps:

1. Applicant/s should speak with their Victorian clinic before making an application, as the clinic will need to confirm that the proposed application meets legislative requirements and make a declaration to this effect.
2. Applicant/s should fill out our application form and email it to [regulation@varta.org.au](mailto:regulation@varta.org.au). Partners seeking VARTA approval should complete one application form together.
3. VARTA receives the application and may ask for additional supporting information if necessary.
4. VARTA will send the Victorian clinic nominated by the applicant/s a **declaration form** to complete. This is to confirm that the application complies with all relevant laws.
5. VARTA's Board considers the application and makes a decision, which may include placing conditions on an approval or granting an exemption from the requirements set out in the next section of these guidelines.
6. VARTA will notify the applicant/s and their Victorian clinic of the Board's decision.

VARTA will make all efforts to process applications as quickly as possible. Applicants should contact VARTA as soon as possible to discuss time sensitivities or other questions relating to their application. Please note that VARTA is only involved in approving applications to import or export donor sperm, eggs or embryos. Victorian clinics are best placed to advise applicants on how to transport donor sperm, eggs or embryos to or from the clinic.

## Requirements considered by VARTA

VARTA considers all relevant facts and circumstances of the particular case in exercising its discretion to grant approval to bring donor sperm, eggs or embryos into or out of Victoria under the Act.

## Guiding principles of the Act

The Act sets out that the following principles should be given effect by VARTA in carrying out its functions:

- the welfare and interests of persons born or to be born as a result of treatment procedures are paramount;
- at no time should the use of treatment procedures be for the purpose of exploiting in trade or otherwise the reproductive capabilities of men and women or children born as a result of treatment procedures;
- children born as a result of the use of donated gametes have a right to information about their genetic parents;
- the health and wellbeing of persons undergoing treatment procedures must be protected at all times; and
- persons seeking to undergo treatment procedures must not be discriminated against.

## Consent, counselling and information requirements

VARTA will consider whether, in accordance with the Act, the donor has:

- provided consent to the sperm, eggs or embryos being used in treatment at a clinic;
- provided consent to the sperm, eggs or embryos being imported or exported to or from Victoria;
- been given written notice of the clinic where the sperm, eggs or embryos are to be sent;
- received counselling from a counsellor who works at a Victorian clinic before providing consent;
- provided identifying and non-identifying information for registration on the Victorian Central Register; and
- been given written information and advice about the Central Register and Voluntary Register, and rights of individuals to apply to those registers.

Under Victoria's "*Right to Know*" legislation, the use of donations from anonymous donors is prohibited in Victoria. Visit our website to find out more about the requirement for known donors and Victoria's [Donor Conception Registers](#).

### Number of families created

Clinics in Victoria must not carry out treatment procedures using donor sperm, eggs or embryos if it is known that 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. In the context of an import application, VARTA considers the number of women worldwide who have been treated using the sperm, eggs or embryos from a single donor, and any existing children already conceived by the applicant/s using sperm or eggs from the same donor.

### Reimbursing donors

In Australia, a sperm, egg or embryo donor cannot be given valuable consideration for their donation. Valuable consideration includes any payment or discount that could induce the donor to make a donation. It is a criminal offence to intentionally give or receive valuable consideration for supplying sperm, eggs or embryos.<sup>1</sup> While commercial incentive or reward for donation is prohibited in Australia, reasonable expenses related to the supply of sperm, eggs or embryos are allowed. An expense is reasonable only if the expense is actually incurred by the donor directly in connection with the donation process and can be verified by receipts or other documentation. Reasonable expenses may include medical and counselling expenses, travel and accommodation expenses; or loss of earnings, insurance, relevant childcare costs and legal advice.<sup>2</sup>

VARTA may request further information about the payments made to a donor, including invoices which show costs paid to an overseas clinic or a donor in order to be satisfied that the donor has only been reimbursed for reasonable expenses incurred in connection with the supply of his or her donation. It is imperative that this information is provided on request. If there are no records of payments made to a donor, or if payments made cannot be supported by evidence of costs incurred by the donor, then it may be difficult for VARTA to assess the application. For arrangements with an overseas sperm or egg bank, please refer to *Fees payable under an agreement* of the Guidelines for class applications to import donor gametes from an overseas sperm or egg bank.

### Surrogacy arrangements

Applicants who wish to export sperm, eggs or embryos for use in a surrogacy arrangement outside Victoria will need make a **declaration** in the **application form** stating that the arrangement is not commercial and any payment made to the surrogate is consistent with the Act. VARTA may request further information about the surrogacy arrangement, or any payments which may be made to the surrogate. Surrogacy arrangements in Victoria must be approved by the [Patient Review Panel](#). Please contact [prp@dhhs.gov.au](mailto:prp@dhhs.gov.au) for further information on requirements for entering into surrogacy arrangements locally.

### Use of donor eggs, sperm or embryos outside Victoria

For applications regarding the export of donor sperm, eggs or embryos, VARTA must also consider whether these sperm, eggs or embryos will be used outside Victoria in a way that would be allowed if they were used in Victoria. VARTA also requires that an application to export donor sperm, eggs or embryos overseas includes a copy of the overseas clinic's licensing, accreditation or quality assurance certificate.

### More Information

Where the circumstances around the import or export application are complex, such as where donor sperm or donor eggs have been sourced overseas, applicants are strongly encouraged to contact VARTA before submitting an application. For more information about the import or export of donor eggs, sperm or embryos produced using donor eggs and/or sperm, please visit our **website** or contact us on (03) 8601 5250 or [regulation@varta.org.au](mailto:regulation@varta.org.au). Information provided by applicants will only be used for the purpose of processing applications and otherwise only for statistical, education or reporting purposes in a de-identified form. No other parties will have access to an applicant's personal information unless VARTA is compelled by law to disclose that information.

<sup>1</sup> Section 17 of the *Prohibition of Human Cloning for Reproduction Act 2008* (Vic) (and the equivalent Commonwealth law)

<sup>2</sup> NHMRC Ethical guidelines on the use of assisted reproductive technology in clinical practice and research 2017

# Individual application to import or export donor sperm, donor eggs and embryos produced using donor sperm and/or eggs

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## Section A – Applicant details

Please provide details of the applicant/s seeking approval from VARTA to import or export donor sperm, donor eggs or donor embryos produced using donor sperm and/or eggs. An applicant and their partner (applicant 2), if any, should complete one application form together.

	Applicant 1	Applicant 2 (if applicable)
Full name		
Sex		
Date of birth		
Mailing address		
Phone number		
Email address		

## Section B – Donor details

Please provide details of the donor/s to allow VARTA to confirm that the donor requirements in the Act have been met and the donor's information is available to be placed on the Central Register as required by the Act. This information is required for both import and export applications.

	Donor 1	Donor 2 (if applicable)
Full name		
Date of birth		
Donor code		
Most recent date of consent		
Please select the option which is relevant to this application:	<ul style="list-style-type: none"> <li><input type="checkbox"/> Know the donor personally</li> <li><input type="checkbox"/> Donor was recruited by a Victorian clinic</li> <li><input type="checkbox"/> Donor was recruited by an interstate clinic</li> <li><input type="checkbox"/> Donor was recruited by overseas clinic or egg/sperm bank</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Know the donor personally</li> <li><input type="checkbox"/> Donor was recruited by a Victorian clinic</li> <li><input type="checkbox"/> Donor was recruited by an interstate clinic</li> <li><input type="checkbox"/> Donor was recruited by overseas clinic or egg/sperm bank</li> </ul>

## Section C – Details of import or export application

Please select the nature of the application:

- I/we wish to **import into Victoria**
- I/we wish to **export out of Victoria**

Please indicate the number of straws of sperm, eggs or embryos you wish to import or export as part of this application and ensure you confirm this number with the relevant clinic before completing this section. Importing or exporting more straws, eggs or embryos than you have approval to import or export may be a breach of the Act.

	Donor 1	Donor 2 (if applicable)
<b>Donor sperm</b>		
<b>Donor eggs</b>		
<b>Embryos produced using donor sperm</b>		
<b>Embryos produced using donor eggs</b>		
<b>Embryos produced using donor sperm and eggs</b>		

### Reasons for making the application

I/we are making this application:

- To undertake assisted reproductive treatment
- To enter into a surrogacy arrangement
- Other (please provide details):

Other relevant information:

- I/we wish to have a child who will be a genetic sibling of my/our existing child/children
- I/we are unable to access a local donor
- Other (please provide details):

### Further information concerning application to import

If payments or reimbursements were made to the donor, please attach evidence of all payments made. Evidence may take the form of invoices or receipts for the payments. If you do not have this information, please contact the clinic where the donor sperm, eggs or embryos were sourced.

- I/we are aware that payments or reimbursements were made to the donor and evidence of them is attached
- I/we confirm that no payments or reimbursements were made to the donor

### Further information concerning application to export

If you are applying to export overseas, please provide a copy of the clinic's licensing, accreditation or quality assurance certificate.

- I/we have attached accreditation or quality assurance certificate.

## Section D – Clinic details

Please provide contact information for the clinics which will facilitate the import or export arrangement to allow VARTA to contact the clinics as necessary to process the application.

	Victorian Clinic	Interstate / Overseas Clinic
<b>Name of clinic</b>		
<b>Contact person</b>		
<b>Contact number</b>		
<b>Contact email</b>		
<b>Postal address</b>		

If donor sperm, eggs or embryos have been sourced from a clinic which is different from the Victorian or interstate / overseas clinic where they are currently stored, please also provide details of this clinic.

<b>Name of clinic</b>	
<b>Postal address</b>	
<b>Contact email</b>	

## Section E – Declarations and consent

Please tick and complete as required:

- I/we declare that I/we have not given or offered to give valuable consideration to the donor. The donor, to the best of my/our knowledge, has not received or offered to receive valuable consideration for the supply of his or her sperm, eggs or embryos. All payments made to the donor (if any) have been reimbursements of reasonable expenses incurred in connection with the supply of the sperm, eggs or embryos.
- I/we undertake to notify my/our Victorian clinic should a live birth result from treatment using the imported or exported donor sperm, eggs or embryos.
- I/we consent to VARTA using the information provided in this form to communicate with relevant organisations, including the clinics, in order to process this application.
- I/we have been counselled by a counsellor who provides services for a Victorian registered assisted reproductive treatment provider (clinic).
- I/we declare that all statements made in this application are true and correct. I/we understand that it is an offence under section 38 of the *Assisted Reproductive Treatment Act 2008 (Vic)* to knowingly or recklessly give false or misleading information or omit to give material information in this application. I/we understand that committing such an offence could result in a penalty.

### Surrogacy arrangements

If the application concerns the export of donor sperm, eggs or embryos for use in a surrogacy arrangement interstate or overseas please confirm that the surrogate will not receive any material benefit or advantage as a result of a surrogacy arrangement other than reimbursement for prescribed costs actually incurred, as set out under regulation 11 of the *Assisted Reproductive Treatment Regulations 2019*:

- I/we declare that the surrogate will not receive any material benefit or advantage under the proposed arrangement as prohibited under section 44 of the Act.

Applicant Signature

Applicant Signature

Applicant Name

Applicant Name

Date

Date