

Guidelines for the import and export of donor sperm, donor eggs and embryos produced using donor sperm and/or eggs

ART

Effective: 1 April 2018

Do I need to apply for VARTA's approval?

If you wish to import or export your own or your partner's eggs, sperm or embryos, you do not need to apply for the Victorian Assisted Reproductive Treatment Authority's (VARTA) approval. You only need to apply for VARTA's approval to import or export eggs, sperm or embryos if they have been donated to you or the embryos were produced using donor sperm and/or eggs.

The *Assisted Reproductive Treatment Act 2008* (Vic) (the Act) only allows donor sperm, donor eggs or embryos produced using donor sperm and/or eggs to be taken in or out of Victoria (whether within Australia or overseas) with the written approval of VARTA.

Depending on your circumstances, you may make an application to VARTA yourself or your clinic may apply on your behalf. Please speak with your clinic before making an application.

How to apply:

The process for seeking approval to import or export donor sperm, eggs or embryos produced using donor sperm and/or eggs is as follows:

1. The recipient of the donor sperm, eggs or embryos produced using donor sperm and/or eggs or a clinic (registered ART provider) makes an application to the Victorian Assisted Reproductive Treatment Authority (VARTA) using the application form available on VARTA's website: www.varta.org.au
2. VARTA receives the application and asks the applicant to provide additional supporting information if necessary.
3. If you are applying to import, VARTA will send the clinic in Victoria a declaration to sign, which acknowledges that the application complies with all relevant laws.
4. 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.
5. VARTA will notify the applicant and their clinic of the board's decision.

VARTA is only involved in **approving applications** to import or export. For more information about how to transport donor sperm, eggs or embryos produced using donor sperm and/or eggs, please speak to your clinic.

Guidelines for the import and export of donor sperm, donor eggs and embryos produced using donor sperm and/or eggs

ART

April 2018

Requirements considered by VARTA

VARTA considers all of the relevant facts and circumstances of the particular case in exercising its discretion to grant approval to bring donated eggs, sperm or embryos into or take them from Victoria.

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

Number of families created

Clinics in Victoria must not carry out treatment procedures using eggs, sperm or embryos if it is known that the treatment procedure may result in more than ten 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 whether more than 10 women worldwide are treated using the sperm, eggs or embryos from a single 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 under section 17 of the *Prohibition of Human Cloning for Reproduction Act 2008 (Vic)* (and the equivalent Commonwealth law) to intentionally give, offer, receive or offer to receive valuable consideration for supplying sperm, eggs or embryos.

However, a donor may be reimbursed for reasonable expenses related to the supply of sperm, eggs or embryos.

Reasonable expenses should be:

- incurred by the donor;
- directly in connection with the donation process; and
- reasonable in all the circumstances

and may include:

- costs which relate to collection, transport or storage;
- medical expenses;
- legal expenses;
- travel expenses; or
- loss of income.

Guidelines for the import and export of donor sperm, donor eggs and embryos produced using donor sperm and/or eggs

ART

April 2018

VARTA may request further information about the payments made to a donor if you make an application to import donor sperm, eggs or embryos (including embryos produced using donor sperm and/or eggs).

VARTA may request invoices which show costs paid to an overseas clinic, 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 your application. Please speak to your clinic if you are concerned about payments made to your donor.

Surrogacy arrangements

If you wish to export sperm, eggs or embryos for use in a surrogacy arrangement outside Victoria, you will need to sign a declaration stating that the arrangement is not commercial and that only medical, legal and travel expenses related to the pregnancy or birth will be paid to the surrogate.

VARTA may request further information about the surrogacy arrangement, or any payments which may be made to the surrogate.

Use outside Victoria

For applications regarding the export of donor eggs, sperm or embryos, VARTA must also consider whether these eggs, sperm 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 eggs, sperm or embryos produced using donor sperm or eggs overseas includes a copy of the overseas clinic's licensing, accreditation or quality assurance certificate.

Other considerations

Guiding principles of the Act

The Act sets out that the following principles should be given effect in all matters related to the Act:

- 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;
- 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.

Class applications

VARTA can also approve class applications made by clinics on behalf of a group of recipients.

Eggs, sperm and embryos imported under a class application are subject to the same considerations as those for individual applications (outlined above).

VARTA encourages clinics which are clinics considering importing eggs, sperm or embryos from overseas to make a proposal to VARTA detailing the arrangement for import, before submitting a class application.

VARTA will consider each class application on its own merits even when it has not stated any objections to a clinic's proposal, or has previously approved an application made under the same proposal.

As with individual applications, VARTA may impose conditions on the approval of class applications.

Guidelines for the import and export of donor sperm, donor eggs and embryos produced using donor sperm and/or eggs

ART

April 2018

More Information

Where the circumstances around your import or export application are complex, such as where donor sperm or donor eggs have been sourced overseas, you are strongly encouraged to contact VARTA before putting in your application.

Please note that under section 38 of the Act, it is an offence to knowingly or recklessly give false or misleading information or not to give material information relating to an application made under the Act, including an application to import or export donor sperm, eggs or embryos produced using donor sperm and/or eggs.

The Assisted Reproductive Treatment Act 2008 (Vic) can be accessed here for your reference:

http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/vic/consol_act/arta2008360/

For more information about the import or export of donor eggs, sperm or embryos produced using donor eggs and/or sperm, please visit the VARTA website or contact us:

Victorian Assisted Reproductive Treatment Authority

Phone: (03) 8601 5250

Email: varta@varta.org.au

Web: www.varta.org.au

Version History

Date Effective	1 April 2018
Superseded version	September 2017