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Artificial Insemination and Embryo Protection Act

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RT I 1997, 51, 824
Entry into force 17.07.1997

Amended by the following acts

Passed	Published	Entry into force
29.01.2003	RT I 2003, 18, 102	07.03.2003
15.06.2006	RT I 2006, 32, 245	01.09.2006
12.03.2008	RT I 2008, 15, 108	01.11.2008
04.06.2008	RT I 2008, 25, 163	05.07.2008
04.06.2008	RT I 2008, 25, 163	01.01.2009
09.12.2008	RT I 2008, 56, 313	01.01.2009
18.11.2009	RT I 2009, 60, 395	01.07.2010
10.02.2011	RT I, 03.03.2011, 1	13.03.2011

Chapter 1
GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) This Act regulates artificial insemination of a woman with the sperm of a man and transfer of embryos created *in vitro*as well as the protection of embryos created *in vitro*.
02.12.2011 13:36
Added indication of subsection (1). Basis: subsection 10 (4) of Riigi Teataja Act.

(2) The provision of gametes, creation of embryos as well as the coding, labelling, research, preservation, processing, packaging, storage, release and issue of gametes and embryos are governed by the Handling and Transplantation of Cells, Tissues and Organs Act unless otherwise provided by this Act.
[RT I 2008, 25, 163 - entry into force 01.01.2009]

§ 2. Artificial insemination

Artificial insemination comprises acts which are performed with the aim of conception and in the course of which the sperm of a man or an embryo created *in vitro*is transferred to a woman.
[RT I 2008, 25, 163 - entry into force 01.01.2009]

§ 3. Embryo

“Embryo” means an embryo in its early stage of development from the time of fertilisation of the ovum. For the purposes of this Act, “embryo” means a human embryo unless otherwise provided by this Act.

§ 3^1. Donor for artificial insemination

A donor for artificial insemination (hereinafter donor) is a person who voluntarily donates his or her gametes for the purposes of artificial insemination. Unless otherwise provided by this Act, sperm donors and ovum donors are both deemed to be donors.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

Chapter 2

CONDITIONS AND PROCEDURE FOR ARTIFICIAL INSEMINATION

§ 4. Voluntary nature of artificial insemination

(1) Only adult women of up to 50 years of age who have active legal capacity are, at their own request, permitted to undergo artificial insemination. No-one shall compel or persuade a woman to undergo artificial insemination.

(2) A woman's consent to artificial insemination shall be recorded pursuant to the procedure provided for in § 16 of this Act.

(3) A woman has the right to refuse to undergo artificial insemination until it is carried out and declare her consent void.

§ 5. Indications for artificial insemination

(1) Artificial insemination of a woman is permitted if it is justified by medical indications.

(2) Artificial insemination of an unmarried woman shall be carried out under the conditions prescribed in §§ 21 and 22 of this Act.

(3) Artificial insemination of a woman is prohibited if pregnancy or delivery is dangerous to the life or health of the woman or the baby or if other medical contraindications exist.
[RT I, 03.03.2011, 1 - entry into force 13.03.2011]

§ 6. Establishing of indications for artificial insemination

(1) The indications specified in § 5 of this Act shall be established by a competent provider of specialised medical care who, if necessary, has the right to refer the patient to a provider of specialised medical care who organises artificial insemination. The provider of specialised medical care organising artificial insemination shall verify the indications for artificial insemination on the basis of the documents forwarded to the provider and has the right to require additional information concerning the state of health of the patient from the provider of specialised medical care who referred the patient thereto, and conduct additional examinations if necessary.

(2) Examinations relating to indications for artificial insemination shall be recorded in a document which proves the provision of the health care services and sets out the conclusion concerning the medical indications and contraindications for artificial insemination.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 7. Doctors' exclusive right to perform artificial insemination

(1) A decision concerning the need for and permissibility of artificial insemination shall be made by a doctor pursuant to the procedure established by this Act and other legislation.

(2) Only doctors have the right to perform artificial insemination and transfer an embryo to a woman. Other health care professionals who have received appropriate training have the right to participate in acts relating to artificial insemination.
[RT I 2008, 25, 163 - entry into force 01.01.2009]

§ 8. Voluntary nature of medical activities

(1) A doctor or any other health care professional shall not be required to perform or participate in the activities specified in § 2 of this Act.

(2) A doctor who has commenced artificial insemination may interrupt the procedure if medical contraindications become evident.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 9. Organisation of artificial insemination

Artificial insemination may be organised by a provider of specialised medical care who according to an activity licence issued on the basis of the Health Services Organisation Act has the right to organise artificial insemination.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 10. Medical and legal counselling

(1) Before performing artificial insemination after having established the indications prescribed in § 5 of this Act, the provider of specialised medical care who organises the artificial insemination shall explain the

biological and medical nature of and the possible risks related to artificial insemination and the legal bases and consequences of artificial insemination to the woman who wishes to undergo artificial insemination and, in the cases specified in §§ 17 and 21 of this Act, also to the man concerned.

(2) A report in two original copies shall be prepared on the counselling specified in subsection (1) of this section. One of the copies of the report shall be submitted to the person(s) who received counselling and the other shall remain with the provider of specialised medical care who organised the counselling.

(3) A report on counselling shall set out:
1) the time and place of the counselling;
2) the name, number of the activity licence, address and telecommunications numbers of the provider of specialised medical care who organised the counselling;
3) the first name, surname and number of the registration certificate of the doctor who provided counselling;
4) the first name(s), surname(s), personal identification code(s) or, in the absence thereof, date(s) of birth, address(es) and telecommunications numbers of the person(s) who received counselling;
5) the aim and content of the counselling;
6) the signatures of the doctor who provided counselling and the person(s) who received counselling.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 11. Prohibition on intermediation of artificial insemination

Intermediation of artificial insemination outside the health care system is prohibited and the agreements concluded as a result of the intermediation are void.
[RT I 2008, 15, 108 - entry into force 01.11.2008]

§ 12. Insemination of woman with sperm of only one man

In artificial insemination of a woman, the sperm of only one man shall be used in each case of insemination.

§ 13. Number of children from one donor

The gametes obtained from one donor may be used in order to conceive babies to be born to up to six different women in Estonia.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 14. Maintaining records of artificial insemination

The required documents concerning artificial insemination shall be prepared by the provider of specialised medical care who organises the artificial insemination. The medical history form for artificial insemination and the procedure for preparing the necessary records shall be established by the Minister of Social Affairs.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 15. Disclosure of information concerning artificial insemination

(1) Personal data relating to artificial information shall not be disclosed except in the case prescribed in § 28 of this Act.

(2) In scientific studies concerning artificial insemination, information shall be disclosed in adherence to the restrictions prescribed in this Act.

Chapter 3
RIGHTS AND OBLIGATIONS OF PERSONS INVOLVED IN ARTIFICIAL INSEMINATION

§ 16. Woman's consent to artificial insemination

(1) Artificial insemination of a woman shall be carried out only under the conditions prescribed in §§ 4 and 5 of this Act and with the written consent of the woman.

(2) The written consent of a woman shall set out that she agrees to:
1) insemination with the sperm of her husband, any other specific man or a donor;
2) *in vitro* fertilisation of her ova;
3) impregnation with an embryo originating from an ovum of another woman;
4) freezing of embryos.
[RT I 2008, 25, 163 - entry into force 01.01.2009]

(3) If examinations conducted on the basis of § 6 of this Act lead to a finding which confirms risk factors but does not preclude artificial insemination, the consent of the woman shall set out separately that she consents to artificial insemination even considering the risk involved.

(4) Artificial insemination may be performed after at least one month has passed from the counselling prescribed in § 10 of this Act.

(5) The format of the written consent prescribed in this section shall be established by the Minister of Social Affairs.

§ 17. Husband's consent to artificial insemination of his wife

(1) In order for a married woman to undergo artificial insemination, her husband's consent, which shall be in accordance with the consent granted by the woman pursuant to § 16 of this Act, is necessary. The husband's consent shall set out whether he agrees to artificial insemination of his wife with his sperm even after his death.

(2) The consent specified in subsection (1) of this section shall be granted in writing. The format of the consent shall be established by the Minister of Social Affairs.

(2^1) If the husband has granted his consent to artificial insemination of his wife, the child is deemed to descend from him.
[RT I 2009, 60, 395 - entry into force 01.07.2010]

(3) A husband has the right to declare his consent void in writing until the beginning of the procedure of artificial insemination.

(4) In the event of artificial insemination of a woman with the sperm of a man who had not granted his consent thereto or had declared his consent void, the issue of the child's filiation shall be settled pursuant to the provisions of acknowledgement of paternity.
[RT I 2009, 60, 395 - entry into force 01.07.2010]

§ 18. Artificial insemination of woman after divorce

(1) Divorce shall suspend the husband's consent to artificial insemination.

(2) Artificial insemination of a woman with the sperm of her divorced husband may be performed only with the man's renewed consent granted in accordance with § 17 of this Act.

§ 19. [Repealed - RT I 2003, 18, 102 – entered into force 07.03.2003]

§ 20. Artificial insemination of woman after husband's death

Artificial insemination of a woman with the sperm of her husband or a man specified in § 21 of this Act later than one month after the death of the husband or man is prohibited.

§ 21. Artificial insemination of unmarried woman with sperm of specific man

(1) Artificial insemination of an unmarried woman with the sperm of a specific man who is not married to the woman may be performed with the written consent of the man in accordance with § 17 of this Act.

(2) A child born as a result of artificial insemination performed in accordance with subsection (1) of this section is deemed to descend from the man who had granted consent to the artificial insemination of the woman.
[RT I 2009, 60, 395 - entry into force 01.07.2010]

(3) In the event of artificial insemination of a woman with the sperm of a man who had not granted his consent thereto or had declared his consent void, the issue of the child's filiation shall be settled pursuant to the provisions of acknowledgement of paternity.
[RT I 2009, 60, 395 - entry into force 01.07.2010]

§ 22. Artificial insemination of unmarried woman with sperm of donor
[RT I 2003, 18, 102 - entry into force 07.03.2003]

(1) An unmarried woman has the right to artificial insemination with the sperm of a donor.

(2) [Repealed - RT I 2009, 60, 395 – entered into force 01.07.2010]

§ 23. Transfer to woman of embryo created from ovum of another woman

(1) Transfer to a woman of an embryo created from an ovum of another woman is permitted if fertilisation of the woman is not possible in any other manner.

(2) The written consent of the donor of the ovum is necessary for performing the act prescribed in subsection (1) of this section. Before obtaining the consent of the donor, she shall be informed of the health risks relating to ovum donation. A report on the counselling of the donor shall be prepared in accordance with the requirements specified in subsections 10 (2) and (3). The donor may withdraw her consent at any time until the beginning of the procedure of ovum removal.

(3) An embryo created from an ovum of a woman of up to 35 years of age may be transferred to another woman on the grounds prescribed in subsection (1) of this section. With the consent of the woman who wishes to undergo artificial insemination, the ovum donor may be older than 35 years of age if she is a relative of the woman.

(4) Transfer of an embryo created from an ovum of another woman is permitted after the ovum has been frozen and preserved for six months, except in the case where the woman wishes the embryo to be transferred earlier after having been informed about the related risks.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 24. Child's filiation in event of transfer of embryo created from ovum of another woman

In accordance with § 83 of the Family Law Act, a child born as a result of artificial insemination in accordance with § 23 of this Act is deemed to descend from the woman who gave birth to the child. The child's filiation from the father shall be ascertained in accordance with §§ 17, 21 and 22 of this Act.
[RT I 2009, 60, 395 - entry into force 01.07.2010]

§ 25. Gamete donation

(1) Any adult man of up to 40 years of age and any adult woman of up to 35 years of age (except in the case provided for in subsection 23 (3)) who is mentally and physically healthy, has consented to donate his or her gametes for the purposes of artificial insemination and has entered into a corresponding written contract for that purpose may be a gamete donor.
[RT I 2008, 25, 163 - entry into force 01.01.2009]

(2) [Repealed - RT I 2008, 25, 163 – entered into force 01.01.2009]

(3) Gametes shall not be used for artificial insemination if the donor has not entered into a contract specified in subsection (1) of this section, has not undergone the required medical examination before each case of gamete donation or, in the case of sperm donation, less than six months have passed from the donation.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 26. Rights and obligations of donors

(1) A donor has the right to:
1) remuneration for gamete donation;
2) non-disclosure of the fact that he or she is a donor.

(2) Donors are required to undergo the medical examination prescribed in § 25 of this Act.

(3) A donor does not have the right to establish preconditions for the use of the gametes donated by him or her.

(4) A donor does not have the right to require establishment of the identity of the mother, father or child, respectively.

(5) A donor does not have the right to require that he or she be declared the mother or father of the child.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 27. Anonymity of donors

(1) The personal data of a donor shall not be disclosed upon artificial insemination, except in the case where the ovum donor is a relative of the woman who wishes to undergo artificial insemination.

(2) The woman and the man who have granted their consent to artificial insemination have the right to know the following information concerning the biological and social background of the donor:
1) nationality;
2) colour;
3) education;
4) marital status;
5) whether he or she has got any children;
6) height;
7) constitution;

8) hair colour;
9) eye colour.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 28. Child's right to be aware of having been artificially conceived

(1) An adult person who was born as a result of artificial insemination has the right to ask information from a vital statistics office concerning his or her artificial conception.

(2) If a person specified in subsection (1) of this section was born as a result of conception with the gametes of a donor, information concerning the donor shall be disclosed to him or her pursuant to subsection 27 (2) of this Act.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

Chapter 4
PROTECTION OF EMBRYOS CREATEDIN VITRO

§ 29. Purpose of*in vitro*fertilisation of ova

An ovum shall be fertilised *in vitro*only with the aim of transferring the ovum to a woman.

§ 30. Freezing of embryos

(1) Embryos created *in vitro*shall be frozen and preserved in frozen form for up to seven years.
[RT I 2008, 25, 163 - entry into force 01.01.2009]

(2) If an embryo is not transferred to a woman within the term specified in subsection (1) of this section, the embryo shall be used for scientific research or destroyed.

§ 31. Use of embryos

(1) An embryo preserved *in vitro*shall be used:
1) for transfer to a woman pursuant to the procedure prescribed in this Act;
2) for scientific research under the conditions prescribed in § 32 of this Act.

(2) In the course of one artificial insemination, up to three embryos created from the gametes of the same persons may be transferred to a woman.

(3) Transactions with embryos are prohibited.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 32. Use of embryos for scientific research

(1) Embryos which, in order to ensure the success of the artificial insemination or to protect the health of the child or the mother, are not transferred to a woman, and embryos which have remained unused due to circumstances specified in subsection 4 (3) or 30 (2) of this Act may be used for scientific research.

(2) The consent of the persons who donated the gametes is necessary for using an embryo for scientific research.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 33. Prohibition on transfer of embryos used for scientific research

Transfer of an embryo which has been used for scientific research to a woman is prohibited.

§ 34. Term for preservation or use of embryos

An embryo may be preserved or used on the grounds prescribed in § 31 or 32 of this Act within fourteen days after fertilisation of the ovum. Preservation or use of embryos after expiry of the specified term is prohibited. The time during which the embryo is frozen pursuant to § 30 of this Act shall not be included in such term.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 35. Prohibited acts with embryo

It is prohibited to perform the following acts in connection with artificial insemination of a woman:
1) artificial fertilisation of an ovum with a sperm which has been selected on the basis of the sex chromosome contained therein, except in the cases where a gamete is selected in order to avoid transmission of a serious sex-related inheritable disease to the child;

2) creation, by way of substitution of the nucleus of a fertilised ovum by a somatic cell of another embryo, foetus or living or dead person, of an embryo with genetic information identical to that of the embryo, foetus or living or dead person;
3) fusion of embryos with different genetic information in order to create a cell fusion if at least one of the embryos is a human embryo, or fusion of a human embryo with a cell which contains genetic information different from that of the cells of the embryo and which may develop further together with the embryo;
4) creation of an embryo capable of developing by fertilisation of a human ovum with animal sperm or animal ovum with human sperm.

Chapter 4[1]
COMPENSATION FORIN VITROFERTILISATION

§ 35[1]. Compensation for health care services related to*in vitro*fertilisation and embryo transfer and for medical expenses related thereto
[RT I 2008, 25, 163 - entry into force 05.07.2008]

(1) The following shall be compensated to a person insured under Health Insurance Act:
[RT I 2008, 25, 163 - entry into force 05.07.2008]
1) health care services related to *in vitro*fertilisation and embryo transfer which have been entered in the list of health care services of the Estonian Health Insurance Fund;
2) health care services provided within 90 before *in vitro*fertilisation and embryo transfer which have been provided in connection with *in vitro*fertilisation and embryo transfer;
3) partial expenses incurred for prescription medicinal products necessary for out-patient treatment which have been entered in the list of medicinal products of the Estonian Health Insurance Fund.
[RT I 2008, 25, 163 - entry into force 05.07.2008]

(2) The right to apply for the compensation specified in subsection (1) of this section applies to females up to 40 years of age who are insured under Health Insurance Act and who have medical indications for *in vitro*fertilisation and embryo transfer (hereinafter entitled person).
[RT I 2008, 25, 163 - entry into force 05.07.2008]

(3) An entitled person has the right to apply for the compensation of expenses incurred for prescription medicinal products which have been entered in the list of medicinal products of the Estonian Health Insurance Fund and which are necessary for the health care services specified in subsection (1) of this section.
[RT I 2008, 25, 163 - entry into force 05.07.2008]

(4) Expenses incurred for health care services specified in subsection (1) of this section which have been provided to the entitled person shall be compensated to the health care provider upon submission of the health service invoice to the Estonian Health Insurance Fund.
[RT I 2008, 25, 163 - entry into force 05.07.2008]

(5) The Minister of Social Affairs shall establish, by a regulation, the rates, conditions and procedure for compensation of expenses incurred for health care services related to *in vitro*fertilisation and embryo transfer and for prescription medicinal products necessary for out-patient treatment which have been entered in the list of medicinal products of the Estonian Health Insurance Fund as well as the terms for payment of compensation and the list of compensated active ingredients.
[RT I 2008, 25, 163 - entry into force 05.07.2008]

(6) Upon provision of health care services specified in clauses (1) 1) and 2) of this section outside of Estonia, the provisions of subsections 27 (2) and (3) of Health Insurance Act shall apply.
[RT I 2008, 25, 163 - entry into force 05.07.2008]

(7) The expenses specified in subsections (1) and (6) of this section and the expenses for organisation of activities shall be compensated from the budget of the Estonian Health Insurance Fund and from the state budget on the account of funds designated for that purpose for the financial year on the basis of a contract under public law entered into between the Ministry of Social Affairs and the Estonian Health Insurance Fund.
[RT I 2008, 56, 313 - entry into force 01.01.2009]

Chapter 5

FINAL PROVISIONS

§ 36. [Omitted from this text.]

§ 37. Implementation of § 10

Until registration of a doctor pursuant to the procedure provided for in the Health Care Services Organisation Act, the doctor's code may be used instead of the number of the registration certificate specified in § 10 of this Act.
[RT I 2003, 18, 102 - entry into force 07.03.2003]

§ 38. Implementing provisions

(1) § 35^1 of this Act shall be applied since 1 January 2006.

(2) Compensations for *in vitro* fertilisation applied for the year 2006 shall be paid from 1 February 2007 until 1 April 2007.
[RT I 2006, 32, 245 - entry into force 01.09.2006]