

TASMANIA

**HUMAN CLONING AND OTHER PROHIBITED
PRACTICES AMENDMENT BILL 2007**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

**PART 2 – HUMAN CLONING AND OTHER PROHIBITED
PRACTICES ACT 2003 AMENDED**

3. Principal Act
4. Long title amended
5. Section 1 amended (Short title)
6. Section 3 amended (Object of Act)
7. Section 4 amended (Interpretation)
8. Part 2, Division 1: Heading amended
9. Section 5 repealed
10. Section 8 amended (No defence that human embryo clone could not survive)
11. Part 2, Division 2: Heading repealed
12. Section 9 repealed
13. Section 10 amended (Offence – creating a human embryo for a purpose other than achieving pregnancy in a woman)
14. Section 11 substituted

- 11. Offence – creating or developing a human embryo by fertilisation that contains genetic material provided by more than 2 persons
- 15. Section 12 amended (Offence – developing a human embryo outside the body of a woman for more than 14 days)
- 16. Section 13 repealed
- 17. Section 14 amended (Offence – heritable alterations to genome)
- 18. Section 15 amended (Offence – collecting a viable human embryo from the body of a woman)
- 19. Section 16 substituted
 - 16. Offence – creating a chimeric embryo
 - 16A. Offence – developing a hybrid embryo
- 20. Section 17 amended (Offence – placing of an embryo)
- 21. Sections 18 and 19 substituted
 - 18. Offence – importing, exporting or placing a prohibited embryo
- 22. Section 20 amended (Offence – commercial trading in human eggs, human sperm or human embryos)
- 23. Part 2, Division 2 inserted
 - Division 2 – Practices that are prohibited unless authorised by a licence*
 - 20A. Offence – creating a human embryo other than by fertilisation, or developing such an embryo
 - 20B. Offence – creating or developing a human embryo containing genetic material provided by more than 2 persons
 - 20C. Offence – using precursor cells from a human embryo or a human fetus to create a human embryo, or developing such an embryo
 - 20D. Offence – creating a hybrid embryo

**PART 3 – HUMAN EMBRYONIC RESEARCH REGULATION ACT
2003 AMENDED**

- 24. Principal Act
- 25. Section 3 amended (Object of Act)
- 26. Section 7 amended (Modification of Commonwealth embryo laws)

HUMAN CLONING AND OTHER PROHIBITED PRACTICES AMENDMENT BILL 2007

*(Brought in by the Minister for Health and Human Services,
the Honourable Larissa Tahireh Giddings)*

A BILL FOR

An Act to amend the *Human Cloning and Other Prohibited Practices Act 2003* and the *Human Embryonic Research Regulation Act 2003*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Human Cloning and Other Prohibited Practices Amendment Act 2007*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

s. 3 Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

**PART 2 – HUMAN CLONING AND OTHER
PROHIBITED PRACTICES ACT 2003 AMENDED**

3. Principal Act

In this Part, the *Human Cloning and Other Prohibited Practices Act 2003** is referred to as the Principal Act.

4. Long title amended

The long title of the Principal Act is amended by inserting “for reproduction” after “cloning”.

5. Section 1 amended (Short title)

Section 1 of the Principal Act is amended by inserting “*for Reproduction*” after “*Cloning*”.

6. Section 3 amended (Object of Act)

Section 3(2) of the Principal Act is amended by omitting “*Prohibition of Human Cloning Act 2002*” and substituting “*Prohibition of Human Cloning for Reproduction Act 2002*”.

*No. 51 of 2003

*Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of*

Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

s. 7

7. Section 4 amended (Interpretation)

Section 4 of the Principal Act is amended as follows:

- (a) by omitting the definition of “human embryo” from subsection (1) and substituting the following definition:

“human embryo” means a discrete entity that has arisen from either –

- (a) the first mitotic division when fertilisation of a human oocyte by a human sperm is complete; or
- (b) any other process that initiates organised development of a biological entity with a human nuclear genome or altered human nuclear genome that has the potential to develop up to, or beyond, the stage at which the primitive streak appears –

and has not yet reached 8 weeks of development since the first mitotic division;

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

s. 7 Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

- (b) by inserting the following definition after the definition of “hybrid embryo” in subsection (1):

“licence” means a licence issued under section 21 of the *Research Involving Human Embryos Act 2002* of the Commonwealth;

- (c) by omitting the definition of “prohibited embryo” from subsection (1);

- (d) by inserting the following subsections after subsection (4):

(5) A reference in this Act to an embryo (including a human embryo) is a reference to a living embryo.

(6) A reference in this Act to a human egg is a reference to a human oocyte.

(7) A reference in this Act to a human embryo does not include a reference to –

(a) a hybrid embryo; or

(b) a human embryonic stem cell line.

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

s. 8

8. Part 2, Division 1: Heading amended

Division 1 of Part 2 of the Principal Act is amended by omitting “*Human cloning*” from the heading to that Division and substituting “*Practices that are completely prohibited*”.

9. Section 5 repealed

Section 5 of the Principal Act is repealed.

10. Section 8 amended (No defence that human embryo clone could not survive)

Section 8 of the Principal Act is amended by omitting “section 5, 6 or 7” and substituting “section 6 or 7”.

11. Part 2, Division 2: Heading repealed

Part 2 is amended by repealing the heading “*Division 2 — Other prohibited practices*”.

12. Section 9 repealed

Section 9 of the Principal Act is repealed.

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

s. 13 Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

13. Section 10 amended (Offence – creating a human embryo for a purpose other than achieving pregnancy in a woman)

Section 10(1) of the Principal Act is amended as follows:

- (a) by inserting “by a process of the fertilisation of a human egg by a human sperm” after “human embryo”;
- (b) by omitting from the penalty “10” and substituting “15”.

14. Section 11 substituted

Section 11 of the Principal Act is repealed and the following section is substituted:

11. Offence – creating or developing a human embryo by fertilisation that contains genetic material provided by more than 2 persons

A person commits an offence if –

- (a) the person intentionally creates or develops a human embryo by a process of the fertilisation of a human egg by a human sperm outside the body of a woman; and
- (b) the human embryo contains genetic material provided by more than 2 persons.

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

s. 15

Penalty: Imprisonment for a term not exceeding 15 years.

15. Section 12 amended (Offence – developing a human embryo outside the body of a woman for more than 14 days)

The penalty under section 12 of the Principal Act is amended by omitting “10” and substituting “15”.

16. Section 13 repealed

Section 13 of the Principal Act is repealed.

17. Section 14 amended (Offence – heritable alterations to genome)

The penalty under section 14(1) of the Principal Act is amended by omitting “10” and substituting “15”.

18. Section 15 amended (Offence – collecting a viable human embryo from the body of a woman)

The penalty under section 15 of the Principal Act is amended by omitting “10” and substituting “15”.

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

s. 19 Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

19. Section 16 substituted

Section 16 of the Principal Act is repealed and
the following sections are substituted:

16. Offence – creating a chimeric embryo

A person commits an offence if the
person intentionally creates a chimeric
embryo.

Penalty: Imprisonment for a term not
exceeding 15 years.

16A. Offence – developing a hybrid embryo

A person commits an offence if the
person intentionally develops a hybrid
embryo for a period of more than 14
days, excluding any period when
development is suspended.

Penalty: Imprisonment for a term not
exceeding 15 years.

20. Section 17 amended (Offence – placing of an embryo)

Section 17 of the Principal Act is amended as
follows:

- (a) by omitting from the penalty under
subsection (1) “10” and substituting
“15”;

*Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of*

Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

s. 21

- (b) by omitting from the penalty under subsection (2) “10” and substituting “15”;
- (c) by omitting from the penalty under subsection (3) “10” and substituting “15”.

21. Sections 18 and 19 substituted

Sections 18 and 19 of the Principal Act are repealed and the following section is substituted:

18. Offence – importing, exporting or placing a prohibited embryo

- (1) A person commits an offence if the person intentionally imports an embryo into Tasmania knowing that, or reckless as to whether, the embryo is a prohibited embryo.

Penalty: Imprisonment for a term not exceeding 15 years.

- (2) A person commits an offence if the person intentionally exports an embryo from Tasmania knowing that, or reckless as to whether, the embryo is a prohibited embryo.

Penalty: Imprisonment for a term not exceeding 15 years.

*Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of*

s. 21 Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

- (3) A person commits an offence if the person intentionally places an embryo in the body of a woman knowing that, or reckless as to whether, the embryo is a prohibited embryo.

Penalty: Imprisonment for a term not exceeding 15 years.

- (4) In this section –

“prohibited embryo” means –

- (a) a human embryo created by a process other than the fertilisation of a human egg by human sperm; or
- (b) a human embryo created outside the body of a woman, unless the intention of the person who created the embryo was to attempt to achieve pregnancy in a particular woman; or
- (c) a human embryo that contains genetic material provided by more than 2 persons; or
- (d) a human embryo that has been developing outside the body of a woman for a period of more than 14 days, excluding any period when development is suspended; or

*Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of*

Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

s. 22

- (e) a human embryo created using precursor cells taken from a human embryo or a human fetus; or
- (f) a human embryo that contains a human cell (within the meaning of section 14) whose genome has been altered in such a way that the alteration is heritable by human descendants of the human whose cell was altered; or
- (g) a human embryo that was removed from the body of a woman by a person intending to collect a viable human embryo; or
- (h) a chimeric embryo or a hybrid embryo.

22. Section 20 amended (Offence – commercial trading in human eggs, human sperm or human embryos)

Section 20 of the Principal Act is amended as follows:

- (a) by omitting from the penalty under subsection (1) “10” and substituting “15”;

*Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of*

s. 23 Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

- (b) by omitting from the penalty under subsection (2) “10” and substituting “15”;
- (c) by omitting “*Prohibition of Human Cloning Act 2002*” from paragraph (b)(i) of the definition of “reasonable expenses” in subsection (3) and substituting “*Prohibition of Human Cloning for Reproduction Act 2002*”.

23. Part 2, Division 2 inserted

After section 20 of the Principal Act, the following Division is inserted in Part 2:

***Division 2 – Practices that are prohibited unless authorised
by a licence***

20A. Offence – creating a human embryo other than by fertilisation, or developing such an embryo

A person commits an offence if –

- (a) the person intentionally creates a human embryo by a process other than the fertilisation of a human egg by a human sperm, or develops a human embryo so created; and

*Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of*

Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

s. 23

- (b) the creation or development of the human embryo by the person is not authorised by a licence.

Penalty: Imprisonment for a term not exceeding 10 years.

20B. Offence – creating or developing a human embryo containing genetic material provided by more than 2 persons

A person commits an offence if –

- (a) the person intentionally creates or develops a human embryo by a process other than the fertilisation of a human egg by a human sperm; and
- (b) the human embryo contains genetic material provided by more than 2 persons; and
- (c) the creation or development of the human embryo by the person is not authorised by a licence.

Penalty: Imprisonment for a term not exceeding 10 years.

20C. Offence – using precursor cells from a human embryo or a human fetus to create a

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

s. 23 Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

human embryo, or developing such an embryo

A person commits an offence if –

- (a) the person uses precursor cells taken from a human embryo or a human fetus, intending to create a human embryo, or intentionally develops an embryo so created; and
- (b) the person engages in activities mentioned in paragraph (a) without being authorised by a licence, and the person knows or is reckless as to that fact.

Penalty: Imprisonment for a term not exceeding 10 years.

20D. Offence – creating a hybrid embryo

- (1) A person commits an offence if the person intentionally creates a hybrid embryo.
- (2) A person commits an offence if the person intentionally develops a hybrid embryo.
- (3) A person does not commit an offence against subsection (1) or (2) if the creation or development of the hybrid

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

Part 2 – Human Cloning and Other Prohibited Practices Act 2003 Amended

s. 23

embryo by the person is authorised by a
licence.

Penalty: Imprisonment for a term not
exceeding 10 years.

Human Cloning and Other Prohibited Practices Amendment Act
2007
Act No. of

s. 24

Part 3 – Human Embryonic Research Regulation Act 2003 Amended

**PART 3 – HUMAN EMBRYONIC RESEARCH
REGULATION ACT 2003 AMENDED**

24. Principal Act

In this Part, the *Human Embryonic Research Regulation Act 2003** is referred to as the Principal Act.

25. Section 3 amended (Object of Act)

Section 3(1) of the Principal Act is amended by inserting “or by other means” after “technology”.

26. Section 7 amended (Modification of Commonwealth embryo laws)

Section 7(1) of the Principal Act is amended as follows:

- (a) by omitting “*Prohibition of Human Cloning Act 2002*” and substituting “*Prohibition of Human Cloning for Reproduction Act 2002*”;
- (b) by omitting “*Human Cloning and Other Prohibited Practices Act 2003*” and substituting “*Human Cloning for Reproduction and Other Prohibited Practices Act 2003*”.

*No. 52 of 2003