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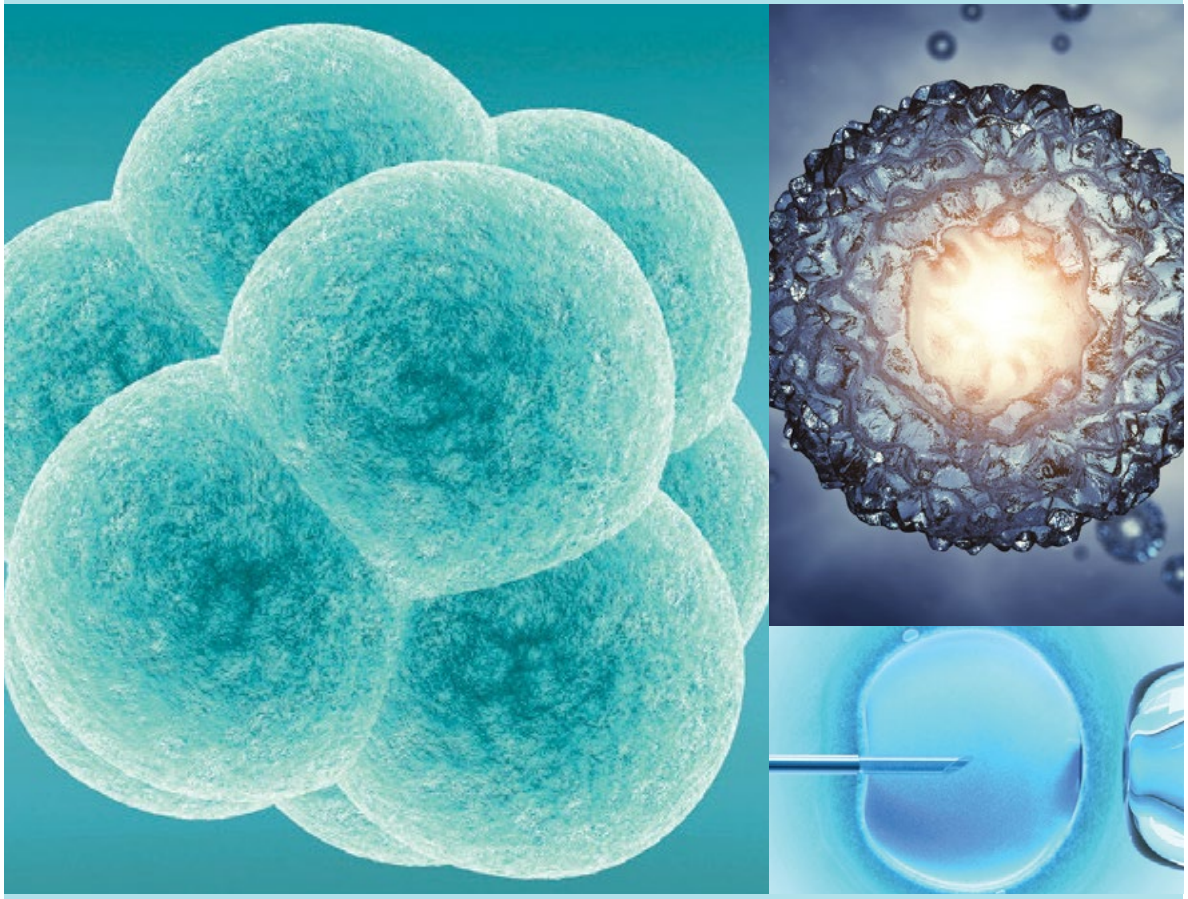
NHMRC Embryo Research Licensing Committee

Report to the Parliament of Australia

For the period 1 September 2023 to 29 February 2024



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Australian Government
National Health and Medical Research Council

NHMRC

The Hon Mark Butler MP
Minister for Health and Aged Care
Parliament House
Canberra ACT 2600

Dear Minister

I am pleased to present to you the 43rd biannual report from the National Health and Medical Research Council's (NHMRC) Embryo Research Licensing Committee (ERLC) which, in accordance with section 19(3) of the *Research Involving Human Embryos Act 2002* (RIHE Act), reports on the operation of the RIHE Act and the licences issued under it.

This report is for the period 1 September 2023 to 29 February 2024 and describes the activities ERLC has undertaken during this reporting period, including associated monitoring and compliance activities.

ERLC met three times during this reporting period and considered two applications to vary existing licences. As of 29 February 2024, there were four general licences issued under the RIHE Act.

ERLC is the responsible authority for licensing research and specialised training in mitochondrial donation techniques, and licensing and overseeing a suitable IVF clinic to deliver mitochondrial donation as part of a clinical research trial. There were no mitochondrial donation licences issued during the reporting period.

Yours sincerely

Professor Dianne Nicol
Chairperson
NHMRC Embryo Research Licensing Committee
28 April 2024

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Table of contents

Introduction

Legislative framework

The Commonwealth *Prohibition of Human Cloning for Reproduction Act 2002* (PHCR Act) and *Research Involving Human Embryos Act 2002* (the RIHE Act) were developed to address community concerns, including ethical concerns, about scientific developments in relation to human reproduction and the use of human embryos in research activities. The legislation prohibits human cloning for reproductive purposes and a range of other practices relating to reproductive technology. It also regulates research activities that involve the use of human embryos created by assisted reproductive technology (ART) or by other means. There are strong penalties for non-compliance with the legislation.

The RIHE Act established the Embryo Research Licensing Committee (ERLC) of the National Health and Medical Research Council (NHMRC) as a Principal Committee of NHMRC. One of the functions of ERLC is to consider applications for licences to conduct research involving human embryos. As required under section 29 of the RIHE Act, ERLC maintains a publicly available database containing information about licences issued. This database can be accessed on the NHMRC website at www.nhmrc.gov.au.

The *Mitochondrial Donation Law Reform (Maeve's Law) Act 2022* came into effect on 1 October 2022. The Act amended the PHCR and RIHE Acts to allow the phased introduction of mitochondrial donation in Australia through a new licensing scheme. The amendments allow mitochondrial donation techniques to be used in research and training activities initially, including in a clinical research trial. Then for human reproductive purposes subject to the outcome of the clinical research trial and further amendments to the relevant regulations. ERLC is the responsible authority for the mitochondrial donation licensing scheme and administers three licence types under this licensing scheme.

Reporting to Parliament

Section 19(3) of the RIHE Act requires ERLC to table twice yearly reports in either House of Parliament on or before 30 June and 31 December each year and at any other time as required by either House of Parliament. The reports must include information about the operation of the RIHE Act and about licences issued under this Act.

This is the 43rd Report to Parliament by ERLC and covers the period 1 September 2023 to 29 February 2024.

Further information

Further information about this report and the issue of licences can be obtained by contacting:

Director, Research Quality and Equity
Research Quality and Advice Branch
NHMRC
GPO Box 1421
CANBERRA ACT 2601

Telephone: 02 6217 9000
Email: embryo.research@nhmrc.gov.au
Website: www.nhmrc.gov.au

Membership of ERLC

ERLC was established in May 2003 under the RIHE Act. The nine-member committee is responsible for making statutory decisions as outlined in the RIHE Act.

Members are appointed by the Minister for Health and Aged Care, according to the process prescribed in the RIHE Act. Appointments are on a part-time basis for a period not exceeding three years, with members eligible for reappointment.

ERLC appointments for the 2021–2024 triennium commenced on 30 September 2021 and conclude on 30 June 2024.

The membership of ERLC is detailed at **Appendix A**.

Functions

The functions of ERLC are to:

- consider general and mitochondrial donation applications for licences to conduct research involving human embryos
- issue (subject to conditions) or not issue such licences
- maintain a publicly available database containing information about licences issued
- monitor licensed activities and ensure compliance with the legislation through the appointment of inspectors and take necessary enforcement action, such as cancelling or suspending licences
- report to the Parliament of Australia on the operation of the RIHE Act and the licences issued under this Act
- perform such other functions as are conferred on it by the RIHE Act or any other relevant law.

Operation of ERLC

Committee meetings

During the reporting period ERLC met three times. The three meetings were held on 16 September, 25 September and 24 October 2023.

New licences issued

No licences were issued during the reporting period.

Variations to existing licences

The RIHE Act empowers ERLC to vary any licence issued under the Act. Variations to licences may either be requested by the licence holder or initiated by ERLC. Variations may be of an administrative nature (e.g. change to site address) or may relate to aspects of the authorised activities (e.g. number of embryos used).

During the reporting period ERLC varied 2 licences. Further information about variations to licences approved during the reporting period is at **Appendix B**.

Progress of licensed activities

Licence holder reports

Licence holders are required to report every six months on the progress of their licensed activities. The following reports on the progress of licensed activities are provided here as received from the licence holders.

Current licences

Licence 309718 – Genea Limited	
Licence number	309718
Licence holder	Genea Limited
Licence title	Use of excess ART embryos and clinically unusable eggs for validation of an IVF device.
Progress of the licensed activity this reporting period	No activities have occurred under this licence in the 6-month period.

Licence 309719 – Genea Limited	
Licence number	309719
Licence holder	Genea Limited
Licence title	Use of excess ART embryos for the development of improved IVF culture media
Progress of the licensed activity this reporting period	No activities have occurred under this licence in the 6-month period.

Progress of licensed activities

Licence 309727 – Melbourne IVF	
Licence number	309727
Licence holder	Melbourne IVF Pty Ltd
Licence title	Comprehensive chromosomal analysis of human preimplantation embryos
Progress of the licensed activity this reporting period	During this reporting period, identification and recruitment of eligible patients continued. Nine patients provided consent to donate their embryos to the project, bringing the total to 13 patients and 66 embryos. No embryos were used during the reporting period. To date, eight embryos from one patient have been removed from storage and warmed for the project. Two of those embryos did not develop to a stage that could be used and were discarded. The remaining six embryos were used for the project. All other embryos remain in storage.

Licence 309729 – Monash University	
Licence number	309729
Licence holder	Monash University
Licence title	The generation and study of a novel in-vitro model of human blastocysts ('iBlastoids')
Progress of the licensed activity this reporting period	Over the past six months, continued progress has been made in achieving key objectives related to the establishment and optimisation of conditions, including the characterisation of the iBlastoids. This includes the exploration of alternative formation methods and the establishment of blastoid-derived Pluripotent Stem Cells (bPSCs). Since the licence initiation, a total of 4274 iBlastoids were generated. However, in the current reporting period, 3256 iBlastoids were created, with 3056 fixed and characterised through immunofluorescence immunohistochemistry or flow cytometry. A subset of 135 iBlastoids were used for bPSC generation, resulting in the establishment of 3 new bPSC lines. Further, 200 iBlastoids were cryogenically frozen, with an attempt to recover 60-frozen iBlastoids. Unfortunately, recovery post-thaw yielded no successful bPSC lines.

Licensed use of excess ART embryos

The following table shows the use of excess ART embryos under licence, as at 29 February 2024.

Current research licences

Licence number	Licence holder	Licence title	Embryos authorised to be used under licence	Embryos used in licensed activity up to 29 February 2024	Embryos used during the reporting period
309718	Genea Limited	Use of excess ART embryos and clinically unusable eggs for validation of an IVF device	345	259	0
309719	Genea Limited	Use of excess ART embryos for the development of improved IVF culture media	640	58	0
309727	Melbourne IVF Pty Ltd	Comprehensive chromosomal analysis of human preimplantation embryos	100 (maximum of 200 excess ART embryos may be removed from cryostorage and thawed to obtain the 100 embryos)	8	0
Total for current research licences			**1,085**	**325**	**0**

Licensed use of human eggs

The following table shows the use of human eggs under licence, as at 29 February 2024.

Current research licences

Licence number	Licence holder	Licence title	Eggs authorised to be used under licence	Eggs used in licensed activity up to 29 February 2024	Eggs used during the reporting period
309718	Genea Limited	Use of excess ART embryos and clinically unusable eggs for validation of an IVF device	1,000	407	0
Total for current licences			**1,000**	**407**	**0**

Licensed use of 'other embryos'

The following table shows the use[1] of 'other embryos' under licence, as at 29 February 2024.

Current research licences

Licence number	Licence holder	Licence title	'Other embryos' authorised to be used under licence[2]	'Other embryos' used in licensed activity up to 31 August 2023.	'Other embryos' used during the reporting period
309729	Monash University	The generation and study of a novel *in-vitro* model of human blastocysts ('iBlastoids')	117,010* *initially assessed as showing basic morphological features of an iBlastoid	4,274	3,256
Total for current licences			**117,010**	**4,274**	**3,256**

1 Use is defined in the RIHE Act as: "***use*** includes develop, or development, as the case requires"; for licence 309729 this includes the creation of an iBlastoid for the activities authorised under that licence.

2 NHMRC's statement on iBlastoids can be found at: https://www.nhmrc.gov.au/about-us/news-centre/nhmrc-statement-iblastoids

Monitoring compliance with the legislation

NHMRC is committed to ensuring that individuals and licence holder organisations comply with both the RIHE Act and the PHCR Act.

The legislation establishes a monitoring and compliance framework, which involves the appointment of inspectors and the conduct of a range of monitoring and compliance activities. Further information about the monitoring and compliance activities NHMRC undertakes on behalf of ERLC can be found on the NHMRC website at: www.nhmrc.gov.au/research-policy/embryo-research-licensing.

Monitoring activities

NHMRC inspectors did not conduct any on-site licence inspections during the reporting period.

During September 2023 it was identified that a minor breach occurred with the late receipt of the Licensed Activity report for licences 309718 and 309719.

A review of the late submission explanation and the report found that whilst an administrative breach of Licence Condition 8 did occur, the breach did not meet the requirements for an offence under the RIHE Act.

Monitoring discussions were held with one licence holder following their notification of multiple licence closures. Throughout the period inspectors continued to monitor information provided by licence holders through legislated six-monthly reports to ERLC and to correspond with licence holders as needed.

Communication and awareness

ERLC considers that providing opportunities for communication and awareness between stakeholders assists with compliance under the legislation and with individual licence conditions.

General information for both applicants and licence holders can be accessed on NHMRC's website at www.nhmrc.gov.au. The NHMRC website contains more information about embryo research licensing, including copies of the RIHE and PHCR Acts, standard conditions that apply to all licences (unless a particular standard condition is specifically excluded by the Special conditions for a licence), application forms and detailed instructions, checklists, and other explanatory materials.

Individuals and organisations considering applying for a licence under the RIHE Act are strongly encouraged to contact ERLC, noting that NHMRC responds to all queries received.

Appendix A: Membership of the Embryo Research Licensing Committee

Members of ERLC for the 2021–2024 triennium are:

Professor Dianne Nicol, Tasmania (Chair)
A person with expertise in a relevant area of law

Associate Professor Bernadette Richards, Queensland
A member of the Australian Health Ethics Committee (AHEC)

Professor Lynn Gillam AM, Victoria
A person with expertise in research ethics

Professor Sarah Robertson, South Australia
A person with expertise in a relevant area of research

Professor Stephen Robson, Australian Capital Territory
A person with expertise in assisted reproductive technology

Dr Carol Wicking, Queensland
A person with expertise in consumer health issues relating to disability and disease

Ms Cal Volks, Victoria
A person with expertise in consumer issues relating to assisted reproductive technology

Ms Louise Johnson, Victoria
A person with expertise in the regulation of assisted reproductive technology

Professor Patrick Tam, New South Wales
A person with expertise in embryology

Appendix B: Variations to licences

During the reporting period, ERLC varied licences as follows:

Licence No.	Organisation	Date of variation	Brief description of variation
309718	Genea Ltd	30 October 2023	Removed one 'Authorised Person' and added new 'Authorised Person'.
309719	Genea Ltd	30 October 2023	Removed one 'Authorised Person' and added new 'Authorised Person'.

Appendix C: Glossary of Common Terms

Term	Description
AHEC	Australian Health Ethics Committee (a Principal Committee of the National Health and Medical Research Council).
Application for a licence	Application form for a licence to conduct research activities permitted under section 20(1) of the *Research Involving Human Embryos Act 2002*.
ART	Assisted reproductive technology.
ART embryo	A human embryo that was created by assisted reproductive technology for use in the assisted reproductive technology treatment of a woman.
Blastocyst	A 5-to-7-day-old embryo that has an outer layer of cells and a fluid filled cavity in which there is a cluster of cells called the inner cell mass.
Chromosomal analysis	Test to look at the number of chromosomes present in a sample of cells, and to identify genetic abnormalities as the cause of a condition or disease.
Cryostorage	The storage of biological material (e.g., cells, tissues, or organs) at ultralow or freezing temperatures to preserve them for future use.
Embryonic stem cell	An undifferentiated cell that is a precursor to many different cell types, obtained from a preimplantation embryo, usually at blastocyst stage.
ERLC	The Embryo Research Licensing Committee of the National Health and Medical Research Council.
Excess ART embryo	An ART embryo that is excess to the needs of the woman for whom it was created and her spouse (if any) at the time the embryo was created, as determined in writing by section 9 of the *Research Involving Human Embryos Act 2002*.
Gamete	A human sperm or egg (ovum or oocyte).
HREC	A human research ethics committee.
Human embryo clone	A human embryo that is a genetic copy of another living or dead human.
iBlastoid	Human embryos (and human embryo clones) generated through the reprogramming of adult skin cells in-vitro, into a three-dimensional cluster of cells that resemble a blastocyst and has the potential to develop up to the stage at which the primitive streak appears.
Information Exchange Visit	A pre-arranged visit by NHMRC inspectors to provide information about the legislation to interested stakeholders.

Term	Description
Inspection	An inspection of records, documents, and premises to ensure compliance with licence conditions and the *Research Involving Human Embryos Act 2002* and the *Prohibition of Human Cloning for Reproduction Act 2002*.
IVF	*In vitro* fertilisation.
Mitochondrial donation	Mitochondrial donation is an assisted reproductive technology that, when combined with in vitro fertilisation (IVF), has the potential to allow women whose mitochondria would predispose their potential children to mitochondrial disease, to have a biological child who does not inherit that predisposition. There are a number of different mitochondrial donation techniques; each involves combining the nuclear DNA from a male and a female with healthy mitochondrial DNA from a donor egg to create an embryo.
Monitoring and compliance activities	Activities conducted to monitor and assess compliance requirements with licence conditions, under the *Research Involving Human Embryos Act 2002* and the *Prohibition of Human Cloning for Reproduction Act 2002*.
NHMRC	National Health and Medical Research Council.
Oocyte	An immature egg cell.
Other embryos	Other embryos is the term used in the *Research Involving Human Embryos Act 2002* to refer to human embryos created by processes other than fertilisation of a human egg by a human sperm.
Preimplantation genetic diagnosis	A procedure used prior to implantation to detect serious genetic conditions, diseases, or abnormalities, to which the gamete providers are known to be at risk, to carry or to be predisposed.
Primitive streak	An elongated band of cells that forms along the axis of a developing fertilised egg on day 15 of human development, marking the start of gastrulation.
Proper Consent	Consent obtained in accordance with the *Ethical Guidelines on the use of Assisted Reproductive Technology in Clinical Practice and Research 2017*, issued by NHMRC.
Skin fibroblasts	A connective-tissue cell that secretes molecular collagen proteins into the extracellular matrix to form the structural framework of dermal tissue.
Somatic Cell Nuclear Transfer (SCNT)	A laboratory technique used to create a human embryo clone involving removing the nucleus of a human egg and replacing it with the genetic material from a somatic cell (such as a skin cell or fibroblast) or stem cell line.
Zygote	A cell formed by the fertilisation between two gametes.

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