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## **Federal Act on Medically Assisted Reproduction (Reproductive Medicine Act, RMA)**

of 18 December 1998 (Status as of 1 September 2017)

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*The Federal Assembly of the Swiss Confederation,  
on the basis of Articles 119 paragraph 2 and 122 paragraph 1 of  
the Federal Constitution<sup>1,2</sup>  
and having considered the Dispatch of the Federal Council dated 26 June 1996<sup>3</sup>,  
decrees:*

### **Chapter 1    General Provisions**

#### **Art. 1            Subject and purpose**

<sup>1</sup> This Act specifies the conditions under which the techniques of medically assisted reproduction may be used in humans.

<sup>2</sup> It protects human dignity, personality and the family and prohibits misuses of biotechnology and gene technology.

<sup>3</sup> It provides for the establishment of a national ethics commission.

#### **Art. 2            Definitions**

In this Act:

- a. *techniques of medically assisted reproduction (assisted reproductive techniques)* means methods of establishing a pregnancy without sexual intercourse – in particular, insemination, *in vitro* fertilisation with embryo transfer and gamete transfer;
- b. *insemination* means the introduction, by means of instruments, of sperm cells into the female reproductive organs;
- c. *in vitro fertilisation* means the bringing together of an ovum and sperm cells outside the woman's body;

AS 2000 3055

<sup>1</sup> SR 101

<sup>2</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

<sup>3</sup> BBl 1996 III 205

- d. *gamete transfer* means the introduction, by means of instruments, of sperm cells and ova into the uterus or a Fallopian tube;
- e. *reproductive cells (gametes)* means sperm cells and ova;
- f. *germline cells* means reproductive cells (including their precursor cells), impregnated ova and embryonic cells whose genetic material can be passed on to offspring;
- g. *impregnation* means causing a sperm cell to penetrate into the cytoplasm of an ovum, in particular by insemination, gamete transfer or *in vitro* fertilisation;
- h. *impregnated ovum* means the fertilised ovum before pronuclear fusion;
- i. *embryo* means the developing offspring from the time of pronuclear fusion until the end of organogenesis;
- j. *foetus* means the developing offspring from the end of organogenesis until birth;
- k. *surrogate mother* means a woman who is prepared to become pregnant by means of an assisted reproductive technique, to carry the foetus to term and to surrender the child permanently to third parties after delivery;
- l. *cloning* means the artificial production of genetically identical organisms;
- m. *chimera formation* means the fusion of totipotent cells from two or more genetically different embryos. Embryonic cells are totipotent if they are capable of developing into any type of specialised cell;
- n. *hybrid formation* means causing a non-human sperm cell to penetrate into a human ovum, or a human sperm cell into a non-human ovum.

## Chapter 2 Techniques of Medically Assisted Reproduction

### Section 1 Principles

#### Art. 3 Well-being of the child

<sup>1</sup> Assisted reproductive techniques may be used only if the well-being of the child is ensured.

<sup>2</sup> They may only be used in couples:

- a. where a basis for a parent-child relationship exists in accordance with Articles 252–263 of the Swiss Civil Code<sup>4</sup> (CC) and
- b.<sup>5</sup> who, on the basis of their age and personal circumstances, are likely to be able to care for and bring up the child until it reaches the age of majority.

<sup>3</sup> Only married couples may use donated sperm cells.

<sup>4</sup> SR 210

<sup>5</sup> Amended by Annex No 20 of the FA of 19 Dec. 2008 (Adult Protection, Law of Persons and Law of Children), in force since 1 Jan. 2013 (AS 2011 725; BBl 2006 7001).

<sup>4</sup> Reproductive cells or impregnated ova may not be used after the death of the person from whom they were obtained. The foregoing does not apply to sperm cells from sperm donors.<sup>6</sup>

<sup>5</sup> Impregnated ova and embryos in vitro may no longer be used following the death of any one of the couple concerned.<sup>7</sup>

**Art. 4** Prohibited practices

Ovum and embryo donation and surrogate motherhood are prohibited.

**Art. 5<sup>8</sup>** Authorisation requirements for reproductive techniques

Assisted reproductive techniques may be used only if:

- a. the aim is to enable a couple to overcome infertility and other treatment methods have failed or offer no prospect of success; or
- b. there is no other way of avoiding the risk of transmitting a serious disease to the offspring.

**Art. 5a<sup>9</sup>** Analysis of the genetic material of reproductive cells and embryos in vitro and their selection

<sup>1</sup> The analysis of the genetic material of reproductive cells and their selection to influence the sex or other characteristics of the child are only permitted in order to identify chromosomal properties that may inhibit the development capacity of the embryo to be created, or if there is no other way of avoiding the risk of transmitting a predisposition for a serious disease. Article 22 paragraph 4 is reserved.

<sup>2</sup> The analysis of the genetic material of embryos in vitro and their selection according to sex or according to other characteristics are only permitted if:

- a. there is no other way of avoiding the risk of an embryo with a hereditary predisposition for a serious disease from implanting in the uterus;
- b. it is probable that the serious disease will occur before the age of 50;
- c. no effective or expedient therapy is available for combating the serious disease; and
- d. the couple have informed the physician in writing that they are not prepared to accept the risk in terms of letter a.

<sup>3</sup> They are also permitted in order to identify chromosomal properties that may inhibit the development capacity of the embryo.

<sup>6</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

<sup>7</sup> Inserted by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

<sup>8</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

<sup>9</sup> Inserted by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

**Art. 5b<sup>10</sup>** Consent of the couple

<sup>1</sup> Reproductive techniques may only be used if the couple concerned have given their written consent after being given sufficient information and counselling. After three unsuccessful treatment cycles, renewed consent and a further period for reflection are required.

<sup>2</sup> The couple's written consent is also required for the reactivation of preserved embryos and impregnated ova.

<sup>3</sup> If an assisted reproductive technique involves an increased risk of multiple pregnancy, the procedure may be carried out only if the couple are prepared to accept a multiple birth.

**Art. 6** Information and counselling

<sup>1</sup> Before an assisted reproductive technique is used, the physician must adequately inform the couple about:<sup>11</sup>

- a. the various causes of infertility;
- b. the medical procedure, including the prospects of success and the risks involved;
- c. the risk of a multiple pregnancy;
- d. possible psychological and physical stresses; and
- e. the legal and financial aspects.

<sup>2</sup> In the counselling session, appropriate reference should also be made to alternative ways of living and other family-building options.

<sup>3</sup> There must be an appropriate period for reflection, generally lasting four weeks, between the counselling session and treatment. It must be pointed out that the couple may also seek independent advice.

<sup>4</sup> Psychological support must be offered before, during and after treatment.

**Art. 6a<sup>12</sup>** Additional duties to provide information and counselling

<sup>1</sup> Before reproductive techniques with the analysis of the genetic material of reproductive cells or embryos in vitro or with the selection of donor sperm cells to prevent the transmission of a serious disease are carried out, the physician shall, in addition to the provision of information and counselling in accordance with Article 6, ensure that the couple concerned receive non-directive, expert genetic counselling. In this connection, the couple must receive sufficient information on:

<sup>10</sup> Inserted by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

<sup>11</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

<sup>12</sup> Inserted by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

- a. the frequency, significance and probability of contracting the disease and its potential symptoms;
- b. prophylactic and therapeutic measures that may be taken against the disease;
- c. ways of organising the life of a child that suffers from the disease;
- d. the informative value of and risk of error in the analysis of the genetic material;
- e. risks that reproductive techniques carry for offspring;
- f. associations for parents of children with disabilities, self-help groups and information and counselling centres in terms of Article 17 of the Federal Act of 8 October 2004<sup>13</sup> on Human Genetic Testing (HGTA).

<sup>2</sup> Counselling may only concern the individual and family situation of the couple concerned and not the interests of society as a whole.

<sup>3</sup> The physician carries out the selection of one or more embryos for transfer to the uterus following a further counselling session.

<sup>4</sup> The physician must keep records of the counselling sessions.

**Art. 6b<sup>14</sup>** Protection and disclosure of genetic data

The protection and disclosure of genetic data is governed by Articles 7 and 19 HGTA<sup>15</sup>.

**Art. 7<sup>16</sup>**

## **Section 2 Licensing requirements**

**Art. 8<sup>17</sup>** Principles

<sup>1</sup> A cantonal licence is required by any person who:

- a. uses assisted reproductive techniques;
- b. receives reproductive cells, impregnated ova or embryos in vitro for preservation or arranges the supply of donated sperm cells without personally using assisted reproductive techniques.

<sup>13</sup> SR **810.12**

<sup>14</sup> Inserted by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>15</sup> SR **810.12**

<sup>16</sup> Repealed by No I of the FA of 12 Dec. 2014, with effect from 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>17</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>2</sup> Laboratories that conduct analyses of genetic material in connection with reproductive techniques in terms of Article 5a require a licence in terms of Article 8 paragraph 1 HGTA<sup>18</sup>

<sup>3</sup> No licence is required for insemination using a partner's sperm cells.

**Art. 9** Use of assisted reproductive techniques

<sup>1</sup> A licence in accordance with Article 8 paragraph 1 letter a shall only be granted to physicians.<sup>19</sup>

<sup>2</sup> They must:

- a. have the necessary training and experience in the methods of medically assisted reproduction;
- b. ensure that such activities are carried out with due care and in compliance with the law;
- c. together with staff, ensure that the persons to be treated receive comprehensive counselling and support with regard to the medical, reproductive biological and socio-psychological aspects of the procedure;
- d. have the necessary laboratory equipment;
- e.<sup>20</sup> ensure that the reproductive cells, impregnated ova and embryos in vitro are preserved according to the state of the art in science and practice.

<sup>3</sup> If the genetic material from reproductive cells or embryos in vitro is analysed as part of the reproductive technique, they must also:

- a. demonstrate they have sufficient knowledge of medical genetics; and
- b. guarantee that the procedure and cooperation with the laboratories concerned accords with the state of the art in science and practice.<sup>21</sup>

**Art. 10** Preservation and supply of reproductive cells, impregnated ova and embryos in vitro<sup>22</sup>

<sup>1</sup> A licence in accordance with Article 8 paragraph 1 letter b shall only be granted to physicians.<sup>23</sup>

<sup>2</sup> They must:

<sup>18</sup> SR **810.12**

<sup>19</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>20</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>21</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>22</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>23</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

- a. ensure that such activities are carried out with due care and in compliance with the law;
- b. together with staff, ensure that sperm donors are carefully selected; and
- c.<sup>24</sup> ensure that reproductive cells, impregnated ova and embryos in vitro are preserved according to the state of science and practice.

#### **Art. 11** Reporting

<sup>1</sup> Persons holding a licence in accordance with Article 8 paragraph 1 must submit an annual report on their activities to the cantonal licensing authority.<sup>25</sup>

<sup>2</sup> The report must provide information on:

- a. the number and type of treatments;
- b. the type of indications;
- c. the use of donated sperm cells;
- d. the number of pregnancies and their outcome;
- e.<sup>26</sup> the preservation and use of reproductive cells, impregnated ova and embryos in vitro;
- f. the number of surplus embryos.

<sup>3</sup> It must not contain any information revealing the identity of specific people.

<sup>4</sup> The cantonal licensing authority shall transmit the data to the Federal Statistical Office for evaluation and publication.<sup>27</sup>

#### **Art. 12**<sup>28</sup> Supervision

<sup>1</sup> The licensing authority shall verify whether:

- a. the requirements for granting a licence have been met;
- b. the obligations and any conditions have been fulfilled

<sup>2</sup> It shall carry out inspections and may enter properties, business premises and rooms. The licence holder must provide the licensing authority with the required information and documents and any other support on request and free of charge.

<sup>3</sup> It may take any measures that are required to enforce this Act. In particular, in the case of serious infringements of this Act, it may prohibit the use of rooms or facilities, close business premises and suspend or revoke licences.

<sup>24</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>25</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>26</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>27</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>28</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>4</sup> The Federal Council may delegate enforcement tasks, and in particular inspection tasks, to public or private organisations and persons. It shall ensure that payment is made for the delegated tasks.

#### **Art. 13<sup>29</sup>**

#### **Art. 14**            Implementing provisions

The Federal Council shall enact the implementing provisions concerning the granting and withdrawal of licences, and reporting and supervision.

### **Section 2a<sup>30</sup> Evaluation**

#### **Art. 14a**

<sup>1</sup> The Federal Office of Public Health (FOPH) shall ensure that the impact of the provisions of this Act relating to the analysis of the genetic material of embryos in vitro and their selection is evaluated.

<sup>2</sup> The evaluation shall relate in particular to:

- a. the compatibility of the indications reported in accordance with Article 11 paragraph 2 letter b in respect of reproductive techniques with analysis of the genetic material of embryos in order to prevent transmitting the predisposition for a serious disease on the one hand with the authorisation requirements in accordance with Article 5a paragraph 2 on the other;
- b. the survey of the number of couples and the procedures carried out as well as the results;
- c. the procedures relating to enforcement and supervision;
- d. the impacts on society.

<sup>3</sup> The holders of a licence in accordance with Article 8 paragraph 1 must on request provide the FOPH and the person appointed to conduct the evaluation with the data required for the evaluation in anonymised form.

<sup>4</sup> The Federal Department of Home Affairs shall provide the Federal Council with a report on conclusion of the evaluation and make proposals for further action.

<sup>29</sup> Repealed by Annex No 87 of the FA on the Federal Administrative Court of 17 June 2005, with effect from 1 Jan. 2007 AS **2006** 2197 1069; BBl **2001** 4202).

<sup>30</sup> Inserted by No 1 of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

### Section 3 Handling of Reproductive Material

#### Art. 15 Preservation of reproductive cells

<sup>1</sup> Reproductive cells may be preserved only with the written consent of the person from whom they were obtained, and for a maximum of five years. At the request of this person, the preservation period shall be extended by a maximum of five years.<sup>31</sup>

<sup>2</sup> A longer preservation period may be agreed with persons who have their reproductive cells preserved with a view to producing their own offspring at a later date because medical treatment they undergo or an activity they carry out could lead to infertility or damage to their genetic material.

<sup>3</sup> The person from whom the reproductive cells are obtained may, at any time, in writing, revoke consent to their preservation and use.

<sup>4</sup> If consent is revoked or the preservation period expires, then the reproductive cells are to be destroyed immediately.

#### Art. 16 Preservation of impregnated ova and embryos in vitro<sup>32</sup>

<sup>1</sup> Impregnated ova and embryos in vitro may only be preserved if:<sup>33</sup>

a.<sup>34</sup> the couple concerned give their written consent; and

b. preservation is intended to permit subsequent establishment of a pregnancy.

<sup>2</sup> The preservation period is limited to five years. At the request of the couple concerned, the preservation period shall be extended by a maximum of five years.<sup>35</sup>

<sup>3</sup> Either partner may revoke his or her consent at any time in writing.

<sup>4</sup> If consent is revoked and the preservation period expires, then the impregnated ova and the embryos in vitro shall be destroyed immediately. The provisions of the Stem Cell Research Act of 19 December 2003<sup>36</sup> are reserved.<sup>37</sup>

<sup>5</sup> ...<sup>38</sup>

<sup>31</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBI **2013** 5823).

<sup>32</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBI **2013** 5823).

<sup>33</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBI **2013** 5823).

<sup>34</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBI **2013** 5823).

<sup>35</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBI **2013** 5823).

<sup>36</sup> SR **810.31**

<sup>37</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBI **2013** 5823).

<sup>38</sup> Repealed by No I of the FA of 12 Dec. 2014, with effect from 1 Sept. 2017 (AS **2017** 3641; BBI **2013** 5823).

**Art. 17**          Development of embryos

<sup>1</sup> The number of impregnated ova developed into embryos outside the woman's body within one treatment cycle must not be greater than is required for medically assisted reproduction or for the analysis of the genetic material of the embryos; the maximum number shall be twelve.<sup>39</sup>

<sup>2</sup> The embryo may only be developed outside the woman's body to the extent that is essential in order to permit implantation in the uterus.

<sup>3</sup> ...<sup>40</sup>

**Section 4      Sperm Donation****Art. 18**          The donor's informed consent

<sup>1</sup> Donated sperm cells may only be used in legitimate assisted reproductive techniques and for purposes to which the donor has given his written consent.

<sup>2</sup> Before donating sperm, the donor must be informed in writing about the legal situation, and in particular the right of the child to obtain information on the donor's records (Art. 27).

**Art. 19**          Selection of donors

<sup>1</sup> Donors must be carefully selected according to medical criteria; in particular, health risks for the recipient of the donated sperm cells must be excluded as far as possible. Other selection criteria are prohibited.

<sup>2</sup> The donor may provide his sperm cells to only one centre; he must be expressly informed of this restriction prior to donation.

**Art. 20**          Supply of donated sperm cells

<sup>1</sup> Donated sperm cells may only be supplied to persons who have a licence to use assisted reproductive techniques; the data specified in Article 24 paragraph 2 is also to be provided.

<sup>2</sup> Any person who receives donated sperm cells must ensure compliance with Article 22 paragraph 2.

**Art. 21**          Non-remuneration

No payment shall be made for sperm donation as such.

<sup>39</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBI 2013 5823).

<sup>40</sup> Repealed by No I of the FA of 12 Dec. 2014, with effect from 1 Sept. 2017 (AS 2017 3641; BBI 2013 5823).

**Art. 22** Use of donated sperm cells

- <sup>1</sup> Sperm cells from different donors must not be used within one cycle.
- <sup>2</sup> Sperm cells from one donor may be used to produce a maximum of eight children.
- <sup>3</sup> When an assisted reproductive technique is used, the relationship between the persons from whom the reproductive cells are obtained must not constitute an impediment to marriage in accordance with Article 95 CC<sup>41</sup>.
- <sup>4</sup> When donated sperm cells are selected, only the donor's blood group and similarity in physical appearance to the man with whom filiation is to be established shall be taken into account.

**Art. 23** Filiation

- <sup>1</sup> A child conceived through sperm donation in accordance with the provisions of this Act cannot contest filiation with the husband of his or her mother. An action contesting paternity by the husband is subject to the provisions of the CC<sup>42</sup>.
- <sup>2</sup> If a child has been conceived through sperm donation, a paternity action against the sperm donor (Art. 261 ff. CC) is not permitted; however, such an action is permissible if the donor knowingly donated sperm at the place of a person who was not licensed to use assisted reproductive techniques or to preserve and supply donated sperm cells.

**Art. 24** Documentation requirements

- <sup>1</sup> Any person who receives or uses donated sperm cells must document the donation in a reliable manner.
- <sup>2</sup> In particular, the following data about the donor is to be recorded:
  - a. family name and first name, date and place of birth, place of residence, place of origin in Switzerland or nationality, occupation and education;
  - b. date of the sperm donation;
  - c. results of the medical examination;
  - d. information about physical appearance.
- <sup>3</sup> Concerning the woman for whom the donated sperm cells are used and her husband, the following data is to be recorded:
  - a. family name and first name, date and place of birth, place of residence, place of origin in Switzerland or nationality;
  - b. date on which the sperm cells are used.

<sup>41</sup> SR 210

<sup>42</sup> SR 210

**Art. 25**           Transmission of data

<sup>1</sup> Immediately after the birth of the child, the physician who carried out the reproductive procedure must transmit the data specified in Article 24 to the Federal Civil Status Office (Federal Office).

<sup>2</sup> If the physician has not been informed of a birth, then he or she must transmit the data immediately after the calculated date of birth, unless it has been established that the treatment was unsuccessful.

<sup>3</sup> The Federal Council shall enact the necessary provisions on data protection.

**Art. 26**           Retention of data

The Federal Office shall retain the data for 80 years.

**Art. 27**           Information

<sup>1</sup> Once the child has reached 18 years of age, he or she may request information from the Federal Office about the donor's physical appearance and personal data (Art. 24 para. 2 lets. a and d).

<sup>2</sup> In addition, the child may at any time request information on all the data relating to the donor (Art. 24 para. 2) if he or she has a legitimate interest in obtaining it.

<sup>3</sup> Before the Federal Office discloses personal data, it shall inform the donor if possible. If the donor does not wish to have personal contact, then the child must be informed and made aware of the donor's rights of privacy and his family's entitlement to protection. If the child insists on his or her right to obtain information under paragraph 1, the information shall be provided.

<sup>4</sup> The Federal Council may assign responsibility for handling requests for information to a specialised federal commission.

<sup>5</sup> ...<sup>43</sup>

**Chapter 3   National Ethics Commission****Art. 28**

<sup>1</sup> The Federal Council shall establish a national ethics commission.

<sup>2</sup> The commission shall monitor developments in assisted reproductive techniques and gene technology in the area of human medicine and comment from an ethical perspective, in an advisory capacity, on associated social, scientific and legal issues.

<sup>3</sup> In particular, the commission shall have the following tasks:

- a. to draw up additional guidelines relating to this Act;
- b. to identify gaps in the legislation;

<sup>43</sup> Repealed by Annex No 87 of the FA on the Federal Administrative Court of 17 June 2005, with effect from 1 Jan. 2007 (AS **2006** 2197 1069; BBl **2001** 4202).

- c. to advise the Federal Assembly, the Federal Council and the cantons on request;
- d. to inform the public about important findings and to promote debate on ethical matters within society.

<sup>4</sup> The Federal Council shall determine the other tasks to be carried out by the commission in the area of human medicine. It shall enact implementing provisions.

## Chapter 4 Criminal Provisions

### Art. 29<sup>44</sup> Production of embryos for illegitimate purposes

<sup>1</sup> Any person who produces an embryo by impregnation with the intention of using it or having it used for purposes other than the establishment of a pregnancy shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> The same penalty shall apply to any person who preserves an impregnated ovum or an embryo *in vitro* with the intention of using it or having it used for purposes other than the establishment of a pregnancy.

### Art. 30 Development of embryos outside the woman's body

<sup>1</sup> Any person who allows an embryo to develop outside the woman's body beyond the point at which implantation in the uterus remains possible shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.<sup>45</sup>

<sup>2</sup> The same penalty shall apply to any person who transfers a human embryo to an animal.

### Art. 31 Surrogate motherhood

<sup>1</sup> Any person who uses an assisted reproductive technique in a surrogate mother shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.<sup>46</sup>

<sup>2</sup> The same penalty shall apply to any person who acts as an intermediary for surrogate motherhood.

<sup>44</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

<sup>45</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

<sup>46</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS 2017 3641; BBl 2013 5823).

**Art. 32<sup>47</sup>** Misuse of reproductive material

<sup>1</sup> Any person who uses reproductive material obtained from an embryo or foetus to bring about impregnation or further development into an embryo shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> Any person who purchases or sells human reproductive material or products derived from embryos or foetuses shall be liable to custodial sentence not exceeding three years or to a monetary penalty.

<sup>3</sup> If the offender acts in a professional capacity, the penalty shall be a custodial sentence not exceeding three years or to a monetary penalty. A custodial sentence must be combined with a monetary penalty

**Art. 33<sup>48</sup>** Analysis of the genetic material and selection of reproductive cells and embryos in vitro

Any person who in the course of a reproductive technique analyses the genetic material of reproductive cells or embryos in vitro and selects them according to their sex or according to other characteristics without overcoming infertility or avoiding the transmission of the predisposition to a serious disease to the offspring shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

**Art. 34<sup>49</sup>** Acting without consent or a licence

<sup>1</sup> Any person who uses an assisted reproductive technique without the consent of the person from whom the reproductive cells are obtained or of the couple being treated shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> The same penalty shall apply to any person who, acting without a licence or having obtained a licence by fraudulent means, uses assisted reproductive techniques or preserves or supplies reproductive cells, impregnated ova or embryos in vitro or arranges analyses of the genetic material of embryos in vitro.

**Art. 35** Germ-line modifications

<sup>1</sup> Any person who genetically modifies a germline cell or an embryonic cell shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.<sup>50</sup>

<sup>2</sup> The same penalty shall apply to any person who uses a genetically modified reproductive cell for impregnation or uses a similarly modified impregnated ovum for further development into an embryo.

<sup>47</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>48</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>49</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>50</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>3</sup> Paragraph 1 does not apply if the modification of germline cells is an unavoidable concomitant effect of chemotherapy, radiotherapy or another medical treatment that a person is undergoing.

**Art. 36** Cloning, chimera and hybrid formation

<sup>1</sup> Any person who creates a clone, a chimera or a hybrid shall be liable to a custodial sentence not exceeding three years or to a monetary penalty.<sup>51</sup>

<sup>2</sup> The same penalty shall apply to any person who transfers a chimera or a hybrid to a woman or to an animal.

**Art. 37** Contraventions

Any person who wilfully:

- a. uses an assisted reproductive technique in a woman in contravention of Article 3 paragraph 2 letter a and paragraph 3;
- b.<sup>52</sup> uses reproductive cells obtained from a person who is deceased, with the exception of the sperm cells of a deceased sperm donor;
- b<sup>bis</sup><sup>53</sup> uses impregnated ova or embryos in vitro obtained from a couple one of whom is deceased;
- c. uses donated ova, develops an embryo using donated ova and donated sperm cells, or transfers a donated embryo to a woman;
- d. uses assisted reproductive techniques in the absence of a permissible indication;
- e.<sup>54</sup>...
- f. preserves reproductive material in contravention of Articles 15, 16 and 42;
- g. develops embryos in contravention of Article 17 paragraph 1;
- h. donates sperm cells to several holders of licences under Article 8 paragraph 1;
- i. uses donated sperm cells in contravention of Article 22 paragraphs 1–3;
- j. incorrectly or incompletely records data required in accordance with Article 24;

shall be liable to a fine not exceeding 100,000 francs.<sup>55</sup>

<sup>51</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>52</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>53</sup> Inserted by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>54</sup> Repealed by No I of the FA of 12 Dec. 2014, with effect from 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>55</sup> Amended by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

**Art. 38** Competent authority

The prosecution and adjudication of offences under this Act is the responsibility of the cantons.

**Chapter 5 Final Provisions****Section 1 Amendment of Current Legislation****Art. 39**

...<sup>56</sup>

**Section 2 Transitional Provisions****Art. 40** Licensing

<sup>1</sup> Any person who requires a licence according to Article 8 paragraph 1 must submit an application, together with the required documents, to the licensing authority within three months after the commencement of this Act.

<sup>2</sup> Any person who does not submit the application within the specified period must discontinue the activities concerned.

**Art. 41** Information

<sup>1</sup> Articles 18 and 24–27 also apply if sperm cells have been donated before, but are only used after, the commencement of this Act.

<sup>2</sup> In all other cases, physicians who have used assisted reproductive techniques using donated reproductive cells must provide information, with the provisions of Article 27 applying *mutatis mutandis*.

**Art. 42** Storage of embryos

<sup>1</sup> Any person who is storing embryos when this Act commences must inform the licensing authority accordingly within three months. Article 11 applies.

<sup>2</sup> ...<sup>57</sup>

**Art. 43** Filiation

Article 23 also applies to children conceived before the commencement of this Act by means of an assisted reproductive technique using donor sperm.

<sup>56</sup> The amendment may be consulted under AS 2000 3055.

<sup>57</sup> Amended by No I of the FA of 3 Oct. 2003, in force until 31 Dec. 2008 (AS 2003 3681; BBl 2003 1163).

**Art. 43a**<sup>58</sup> Transitional Provision to the Amendment of 12 December 2014

The submission of reports and proposals in accordance with Article 14a paragraph 4 shall take place for the first time five years after the Amendment of 12 December 2014 comes into force.

### **Section 3 Referendum and Commencement**

#### **Art. 44**

<sup>1</sup> This Act is subject to an optional referendum.

<sup>2</sup> The Federal Council shall determine the commencement date.

Commencement date: 1 January 2001<sup>59</sup>

<sup>58</sup> Inserted by No I of the FA of 12 Dec. 2014, in force since 1 Sept. 2017 (AS **2017** 3641; BBl **2013** 5823).

<sup>59</sup> Federal Council Decree of 4 Dec. 2000

