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# Research Involving Human Embryos and Prohibition of Human Cloning Inter-Governmental Agreement – Notice of Variation

**Dated:** 13 April 2007

**Notice given by and to:**

The Commonwealth of Australia (“the Commonwealth”) and

The State of New South Wales

The State of Victoria

The State of Queensland

The State of Western Australia

The State of South Australia

The State of Tasmania and

The Australian Capital Territory (collectively called “the States and Territory”).

**Recitals**

- A. By the Research Involving Human Embryos and Prohibition of Human Cloning Inter-Governmental Agreement (the “Agreement”) of 31 March 2004, the Commonwealth and the States and Territories agreed to facilitate:
- the implementation of the nationally-consistent legislative scheme for the regulation of the use of excess ART embryos (including a review of the scheme within three years) and the prohibition of human cloning and other practices regarded as unacceptable by COAG; and
  - the maintenance over time of a nationally-consistent approach.
- B. A review of the *Prohibition of Human Cloning Act 2002* (Cth) and the *Research Involving Human Embryos Act 2002* (Cth) was tabled in the Commonwealth Parliament on 19 December 2005.
- C. The Agreement has been reviewed, in accordance with Clause 15 of the Agreement, and the parties have agreed to vary the Agreement, in accordance with Clause 17 of the Agreement.
- D. The purpose of this Variation is to facilitate:
- the implementation of a nationally-consistent scheme to reflect the changes to the *Prohibition of Human Cloning Act 2002* (Cth) and the *Research Involving Human Embryos Act 2002* (Cth) enacted by the *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006* (Cth) which was assented to on 12 December 2006; and
  - the maintenance over time of a nationally-consistent scheme for the regulation of the use of excess ART embryos, other embryos and human eggs and the prohibition of human cloning for reproduction and other specified practices.

**1. Contents of Variation**

- 1.1 Clause 6 of the Agreement is removed and replaced with the following.

6. For the purpose of ensuring that the Scheme applies throughout Australia, each State and Territory which is a Party to this agreement will use its best endeavours to submit to its Parliament, within 12 months of 12 June 2007, a Bill or Bills that would have the effect of achieving national consistency with the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002 (Cth)* (as amended by the *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006 (Cth)*).

1.2 Clause 7 of the Agreement is removed and replaced with the following.

7. The responsible Commonwealth Minister will, as soon as practicable after receiving notification from a State or Territory that it has enacted a law it considers brings the law of the State or Territory into correspondence with the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002 (Cth)* (as amended by the *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006 (Cth)*), consider whether the State or Territory law should be declared to be a corresponding State law. If the Commonwealth Minister considers that the State or Territory law should be so declared, the Commonwealth Minister will arrange for a notice to be published in the *Commonwealth of Australia Gazette* declaring the State or Territory law to be a corresponding State or Territory law for the purposes of the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002 (Cth)*.

1.3 Clause 12 of the Agreement is removed and replaced with the following.

12. Once a State or Territory law has been declared to correspond to the changes enacted by the *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006 (Cth)*, if the Commonwealth or that State or Territory proposes to amend its Legislation or to introduce new Legislation so as to affect the operation of the Scheme, it will submit the proposed amendments or new Legislation to the Australian Health Ministers' Conference (AHMC) or COAG for consideration. Each Party agrees that it will not table in Parliament such an amendment or such new Legislation unless AHMC or COAG, as the case may be, has considered the proposed amendment or new Legislation.

1.4 A new Clause 12A is inserted after Clause 12 as follows.

- 12A. If Legislation relevant to this agreement is to be introduced into the Parliament of a jurisdiction, the relevant Party will provide a notice to all other Parties as soon as is reasonably practicable.

1.5 Clause 15 of the Agreement is removed and replaced with the following.

15. The Parties agree that this Agreement will be reviewed following the concurrent reviews of the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002* (as amended by the *Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Act 2006*), which will be required to be undertaken as soon as possible after 12 December 2009.

## 2. **Date when Variation comes into force**

2.1 This Variation to the Agreement comes into force on 13 April 2007.

EXECUTED on 13 April 2007

SIGNED by:

The Honourable John Winston Howard MP )

Prime Minister of Australia )

The Honourable Morris Iemma MP )

Premier of the State of New South Wales )

The Honourable Steve Bracks MP )

Premier of Victoria )

The Honourable Peter Beattie MP )

Premier of Queensland )

The Honourable Alan Carpenter MLA )

Premier of the State of Western Australia )

The Honourable Michael David Rann MP )

Premier of the State of South Australia )

The Honourable Paul Lennon MHA )

Premier of the State of Tasmania )

Jon Stanhope MLA )

Chief Minister of the Australian Capital Territory )