

## **23 Births, assisted reproductive technology, family law and child protection**

Doctors need sufficient knowledge of the legislation concerning notification of births, assisted reproductive technology and family law to ensure they fulfil any statutory duties relating to their medical practice in these areas. In addition, as doctors may be the first to recognise the possibility of child abuse, they should be aware of their legal obligations in the area of child protection. In regard to assisted reproductive technology and the treatment of infertility, this chapter is restricted to the legal and regulatory aspects and does not canvass the ethical and social issues of this specialised area.

### **23.1 Notification of births (including stillbirths)**

It is a legal requirement of the births, deaths and marriages registration acts of the states and territories that the name, sex, parentage and date and place of birth of all newborn children be provided to the registrars of birth. The acts place the onus of notification primarily on the CEO of a hospital where a child is born in a hospital, and on the doctor or midwife if the child is born elsewhere. In addition, the parents are identified as having a responsibility to register a birth. The general principles in regard to notification of births are the same in each jurisdiction, but there are differences in the period of grace before notification. The relevant legislation is contained in Table 22.2 in Chapter 22, while the timeframes for notification of live and stillbirths are summarised in Table 23.1 below.

The term *stillborn child* under the various acts means a child that exhibited no signs of respiration or heartbeat, or other signs of life after birth, was at least 20 weeks' gestation, or if the latter cannot be established, had a body mass of at least 400 grams at birth, with the exception of the Australian Capital Territory where the period of gestation is set at 22 weeks' and the body mass at 500 grams, in accordance with the World Health Organization's definition. Notification of a stillbirth must be accompanied by a certificate completed by the doctor attesting to the apparent cause of the stillbirth or stating that such certification will be provided later. Any infant, regardless of maturity or birth weight, who breathes or shows any other signs of life after being born, must be registered as a live birth, and if death subsequently occurs within 28 days, as a neonatal death (see Chapter 22 for more detail).

For more information about the state and territory birth, deaths and marriages registries, a federal government website provides a link to all the registries [1].

**Table 23.1 Births, deaths and marriages registration acts: summary of notification obligations**

State	Year of legislation	Notification of live birth	Notification of stillbirth
New South Wales	1995	7 days	48 hours
Victoria	1996	21 days	48 hours
Queensland	2003	2 working days	2 working days
South Australia	1996	7 days	48 hours
Western Australia	1998	1 month	1 month
Tasmania	1999	21 days	48 hours
Northern Territory	1995	10 days	10 days
Australian Capital Territory	1997	7 days	48 hours

## 23.2 Assisted reproductive technology

Assisted reproductive technology (ART) is the application of clinical and/or laboratory technology to gametes (human eggs or sperm) and/or embryos for human reproduction. ART is best exemplified through in-vitro fertilisation (IVF) and embryo transfer, and gamete intrafallopian transfer (GIFT). It also includes the longer-standing technique of artificial insemination by donor (AID).

The practice of ART is regulated by legislation in New South Wales, Victoria, South Australia and Western Australia, as described below. In these four states, National Health and Medical Research Council (NHMRC) guidelines [2] are incorporated in the regulatory regime. The legislation in Victoria and WA establishes a statutory body that issues licences to clinics that provide ART services. In SA, the Minister for Health is responsible for registering providers. In NSW, registration of ART providers is a responsibility of the Department of Health. In the remaining states and territories, ART is guided by a combination of self-regulation (see below) and the NHMRC guidelines. These laws and guidelines cover the