



Frequently asked questions

What does it mean for Western Australians now the *Assisted Reproductive Technology and Surrogacy Act 2025* has passed?

The *Assisted Reproductive Technology and Surrogacy Act 2025* does not come into effect until it is commenced by proclamation. The new Act is planned to commence in Western Australia (WA) in mid-2027.

Until the new Act commences, the existing laws and associated subsidiary legislation, the *Human Reproductive Technology Act 1991*, the *Surrogacy Act 2008*, and the *Artificial Conception Act 1985* remain in force.

Western Australians who are currently excluded from accessing assisted reproductive technology (ART) under existing laws can now plan to access ART services, including surrogacy and posthumous use, in WA from mid-2027.

Western Australians who were previously unable to apply for a transfer of parentage after engaging in surrogacy, either at home or overseas, can also plan to apply to the Family Court of WA to become their child's legal parent/s. These applications can be lodged within a non-extendable 6-month window from mid-2027.

What if I had hoped to access ART or surrogacy in 2026?

If you are eligible under the existing ART or surrogacy laws you may continue with your plans to access ART or surrogacy in 2026. If you are not eligible under existing laws but will be eligible under the new law, you will have to wait until the *Assisted Reproductive Technology and Surrogacy Act 2025* commences in approximately mid-2027 to access ART in WA. However, you may engage in preparatory processes. For example, for surrogacy, you may seek legal advice and counselling in anticipation that access to ART to further the surrogacy will become available to you when the Act commences.

What if I'm going through ART or surrogacy right now? Does anything change?

Passage of the *Assisted Reproductive Technology and Surrogacy Act 2025* does not impact those who are going through ART or surrogacy right now. The *Assisted Reproductive Technology and Surrogacy Act 2025* is planned to commence in mid-2027. Until then, the *Human Reproductive Technology Act 1991*, the *Surrogacy Act 2008*, the *Artificial Conception Act 1985* and subsidiary legislation remain in force.

I see that the *Assisted Reproductive Technology and Surrogacy Act 2025* makes it an offence to engage in commercial surrogacy overseas. What if I am already engaged in a commercial surrogacy arrangement overseas when the Act commences as it can be a very lengthy process?

Section 112 of the Act creates an offence for engaging in commercial surrogacy. Section 151 of the Act extends the application of that offence to actions undertaken overseas. Both sections will commence by proclamation. It is intended that section 112 will commence in approximately mid-2027 and section 151 will commence 2 years after in approximately mid-2029. It is strongly recommended that intended parents engage in altruistic surrogacy in WA, however it is acknowledged that is not currently possible for all groups. The delayed commencement of the extraterritorial application of the offence should give those intended parents who are already engaged in an overseas commercial arrangement the time to complete this. Engaging in a commercial surrogacy in WA remains an offence.

If my child was born before commencement of the *Assisted Reproductive Technology and Surrogacy Act 2025* and I have been unable to apply for transfer of parentage under the *Surrogacy Act 2008*, can I apply to the Family Court of WA for transfer of parentage under the new Act?

Yes, but applications can only be made for a limited time. For surrogate children born locally or overseas before commencement of the Act, applications must be lodged within a non-extendable 6-month window from approximately mid-2027 when the Act commences. These applications may be made regardless of the age of the child or person born from the arrangement as long as they were born before commencement of the Act and are more than 28 days old at the time the application is made. Information for parties to a historical surrogacy arrangement who may be impacted by this can be found at [Advance notice of requirements for parentage order applications for historical surrogacies](#). More information on this will be made available closer to commencement of the Act.

I am a donor conceived person who has not been able to access identifying information about my donor as I was conceived before 1 December 2004. When will I be able to access this information?

You will be able to access prescribed information about your donor from approximately mid- 2027 when the *Assisted Reproductive Technology and Surrogacy Act 2025* commences. Prescribed information will be detailed in regulations which are currently in development.

If I'm an anonymous donor, when will my details become available?

If you donated anonymously before 1 December 2004, any offspring conceived from your donation who is aged 16 years or over will be able to access prescribed information about you from approximately mid-2027 when the *Assisted Reproductive Technology and Surrogacy Act 2025* commences. Prescribed information will be detailed in regulations which are currently in development.

Can I be contacted by people who were conceived from my donation, even if I donated anonymously?

The changes under the new legislation allowing access to information for donor conception does not automatically give a right for 'contact' - this will require the consent of both parties. This process can be sensitively assisted through the Donor Conception Information Service (DCIS). Further information for all parties to donor conception is available from the DCIS website at https://www.healthywa.health.wa.gov.au/Articles/A_E/Donor-conception-information-service.

I'm a parent of a donor conceived person who is under 16 years old; can I access the donor's identifying information?

If you received ART treatment using donor material at a Western Australian fertility clinic, you will have access to prescribed information about your donor from approximately mid-2027 when the *Assisted Reproductive Technology and Surrogacy Act 2025* commences. Prescribed information will be detailed in regulations which are currently in development. Identifying information can always be shared with mutual consent of the donor. The DCIS can assist you with your request.

What changes are coming for posthumous use?

The *Assisted Reproductive Technology and Surrogacy Act 2025* permits posthumous use of gametes and embryos by a surviving partner, with specific requirements. However, these provisions cannot be accessed until approximately mid-2027 when the Act commences. Until then, posthumous use remains prohibited in WA.

Will these changes be introduced gradually? If so, what changes will be prioritised?

There will be no changes introduced before the *Assisted Reproductive Technology and Surrogacy Act 2025* is proclaimed in mid-2027. Until then the *Human Reproductive Technology Act 1991*, the *Surrogacy Act 2008*, the *Artificial Conception Act 1985* and subsidiary legislation remain in force.

Where can I get more information?

For further information, or to sign up to receive updates, please contact ART.secretariat@health.wa.gov.au.

For matters regarding information relating to donor conception, please contact DCIS@health.wa.gov.au.

This document can be made available in alternative formats on request for a person with disability.

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