

Health  
Canada

Santé  
Canada

Health Products  
and Food Branch

Direction générale des produits  
de santé et des aliments

Biologics and Genetic  
Therapies Directorate  
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September 24, 2013

13-114122 - 39

P.O. Box 15000  
Halifax, NS  
B3H 4R2

Dear Dr. Downie and Dr. Baylis:

Thank you for your letter of July 30, 2013 about the legality of certain practices under the *Assisted Human Reproduction Act* (AHR Act).

Health Canada interprets the prohibitions under the AHR Act as applying to activities that take place in Canada. Accordingly, it is the Department's interpretation that Section 7 of the AHR Act prohibits the purchase, offer to purchase or advertisement for purchase *in Canada* of sperm or eggs from donors for reproductive or any other use. For purposes of section 7 of the AHR Act, "purchase" includes acquiring sperm or ova in exchange for property or services. The location of an activity is a matter of fact. In some situations, it is clear that a transaction or activity has taken place in Canada; in other situations, the location(s) of an activity or transaction may be a matter for a court to determine.

The AHR Act was adopted by Parliament in 2004, within a context in Canada where it was known that human reproductive material (HRM) banks or assisted human reproduction clinics or other business operations were buying/importing HRM from HRM banks in countries where donors were being paid, and that such HRM was being sold in Canada. The language of the Act as passed in 2004 does not prohibit the purchase of sperm or eggs in Canada from persons (individual or corporate) other than donors, provided the person is not acting on behalf of the donor. Health Canada interprets "acting on behalf of the donor" to mean acting as an agent or representative for the donor. It is therefore the Department's interpretation that it is not illegal to purchase ova from an egg bank, provided that the egg bank is not acting on behalf of the donor.

It is not illegal under the *Assisted Human Reproduction Act* for Canadians or foreign nationals to sell or offer for sale, or advertise for sale human gametes in Canada, as it

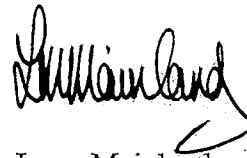
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was Parliament's intent to avoid criminalizing potentially vulnerable persons.

It is Health Canada's interpretation that donors may currently be reimbursed for their actual expenditures directly related to their donation. Reimbursement must not involve financial or other gain, normally occurs after receipts are provided, and may not be paid in advance of anticipated expenses.

Regards,

A handwritten signature in black ink, appearing to read "Lynn Mainland". The signature is written in a cursive style with a large, sweeping flourish at the end.

Lynn Mainland  
Director, Assisted Human  
Reproduction