L.N. 271 of 2006

HUMAN BLOOD AND TRANSPLANTS ACT, 2006 (ACT NO. IV OF 2006)

Tissues and Cells (Quality and Safety) Regulations, 2006

BY virtue of article 16 of the Human Blood and Transplants Act, 2006, the Minister for Health, the Elderly and Community Care, after consultation with the Licensing Authority, has made the following regulations:-

Title, scope, commencement.

1. (1) The title of these regulations is the Tissues and Cells (Quality and Safety) Regulations, 2006.

(2) The scope of these regulations is to transpose Directive 2004/23/EC of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells, and Directive 2006/17/EC of the European Parliament and of the Council of the 8th February 2006 as regards certain technical requirements for the donation, procurement and testing of human tissues and cells.

Interpretation.

2. In these regulations unless the context otherwise requires:

"the Act" means the Human Blood and Transplants Act, 2006;

"allogeneic use" means cells or tissues removed from one person and applied to another;

"autologous use" means cells or tissues removed from and applied in the same person;

"cells" means individual human cells or a collection of human cells when not bound by any form of connective tissue;

"Directive 2004/23/EC" means the Dirctive of the European Parliament and of the Council of 31 March 2004 on setting standards of quality and safety for the donation, procurement, testing, processing, preservation, storage and distribution of human tissues and cells;

"Directive 2006/17/EC" means the Directive of the European Parliament and of the Council of the 8th February 2006 as regards certain technical requirements for the donation, procurement and testing of human tissues and cells;

"direct use" means any procedure where cells are donated and used without any banking;

"distribution" means transportation and delivery of tissues or cells intended for human applications;

"donation" means donating human tissues or cells intended for human applications;

"donor" means every human source, whether living or deceased, of human cells or tissues;

"human application" means the use of tissues or cells on or in a human recipient and extracorporal applications;

"organ" means a differentiated and vital part of the human body, formed by different tissues, that maintains its structure, vascularisation and capacity to develop physiological functions with an important level of autonomy;

"partner donation" means the donation of reproductive cells between a man and a woman who declare that they have an intimate physical relationship;

"preservation" means the use of chemical agents, alterations in environmental conditions or other means during processing to prevent or retard biological or physical deterioration of cells or tissues;

"processing" means all operations involved in the preparation, manipulation, preservation and packaging of tissues or cells intended for human applications;

"procurement" means a process by which tissue or cells are made available;

"procurement organisation" means a health care establishment or a unit of a hospital or another body that undertakes the procurement of human tissues and cells and that may not be accredited, designated, authorised or licensed as a tissue establishment;

"quality system" means the organisational structure, defined responsibilities, procedures, processes, and resources for implementing quality management and includes all activities which contribute to quality, directly or indirectly;

"quarantine" means the status of retrieved tissue or cells, or tissue isolated physically or by other effective means, whilst awaiting a decision on their acceptance or rejection;

"reproductive cells" means all tissues and cells intended to be used for the purpose of assisted reproduction;

"serious adverse event" means any untoward occurrence associated with the procurement, testing, processing, storage and distribution of tissues and cells that might lead to the transmission of a communicable disease, to death or life-threatening, disabling or incapacitating conditions for patients or which might result in, or prolong, hospitalisation or morbidity;

"serious adverse reaction" means an unintended response, including a communicable disease, in the donor or in the recipient associated with the procurement or human application of tissues and cells that is fatal, life-threatening, disabling, incapacitating or which results in, or prolongs, hospitalisation or morbidity;

"standard operating procedures" (SOPs) means written instructions describing the steps in a specific process, including the materials and methods to be used and the expected end product;

"storage" means maintaining the product under appropriate controlled conditions until distribution;

"tissue" means all constituent parts of the human body formed by cells;

"tissue establishment" means a tissue bank or a unit of a hospital or another body where activities of processing, preservation, storage or distribution of human tissues and cells are undertaken. It may also be responsible for procurement or testing of tissues and cells;

"traceability" means the ability to locate and identify the tissue or cell during any step from procurement, through processing, testing and storage, to distribution to the recipient or disposal, which also implies the ability to identify the donor and the tissue establishment or the manufacturing facility receiving, processing

or storing the tissue or cells, and the ability to identify any recipient at the medical facility or facilities applying the tissue or cells to any recipient; traceability also covers the ability to locate and identify all relevant data relating to products and materials coming into contact with those tissues or cells;

"validation" (or "qualification" in the case of equipment or environments) means establishing documented evidence that provides a high degree of assurance that a specific process, SOP, piece of equipment or environment will consistently produce a product meeting its predetermined specifications and quality attributes; a process is validated to evaluate the performance of a system with regard to its effectiveness based on intended use.

Responsible person.

3. (1) A tissue and cell establishment, hereinafter referred to as "establishment", shall designate a person who shall be responsible for the following tasks:

(a) ensuring that human tissues and cells intended for human applications in the establishment for which that person is responsible are procured, tested, processed, stored and distributed in accordance with these regulations and with the laws in force in Malta;

(b) providing information to the competent authority or authorities as required in regulation 6 of these regulations;

(c) implementing the requirements of Articles 7, 10, 11, 15, 16 and 18 to 24 of the Directive 2004/23/EC within the tissue establishment; and

(d) ensure that the Authority is notified of any serious adverse events and reactions and is provided with a report analysing the cause and the ensuing outcome.

(2) An establishment shall only designate a person as a responsible person if such person is in possession of:

(a) a diploma, certificate or other evidence of formal qualifications in the field of medical or biological sciences awarded on completion of a university course of study or a course recognised as equivalent by the Authority; and

(b) at least two yearsí practical experience in the relevant fields.

(3) The responsible person may delegate any of the tasks specified in sub-regulation (1) hereof to other persons who shall be qualified by training and experience to perform them.

(4) The establishments shall notify the Licensing Authority, hereinafter referred to as "the Authority" of the name of any persons to whom tasks have been delegated by the responsible person and the specific tasks which have been delegated to such persons.

(5) Where the responsible person or a person to whom tasks have been delegated is permanently or temporarily replaced, the establishment shall immediately provide the Authority with the name of the replacement, details of his qualifications and the date on which the replacement began his duties.

(6) If the Authority considers that the responsible person does not meet the requirements of sub-regulation (2), it may serve a notice to that effect on the establishment.

(7) If, within 14 days of receiving a notice in accordance with sub-regulation (6), a establishment is not able to demonstrate to the reasonable satisfaction of the Authority that the responsible person does meet the requirements of sub-regulation (2), the establishment shall, without delay –

(a) relieve him of the duties of responsible person in respect of the establishment;

(b) appoint a new responsible person in his place; and

(c) notify the Authority that it has appointed a new responsible person and provide details of the name and qualifications of the person appointed.

Duties of establishments.

4. (1) An establishment shall -

(a) ensure that the personnel directly involved in the procurement, processing, preservation, storage and distribution of tissues and cells are qualified to perform such tasks and are provided with timely, relevant and regularly updated training;

(b) ensure that all donations of human tissues and cells are subjected to tests in accordance with the requirements referred to in Directive 2004/23 and any annexes thereto and that the selection and acceptance of tissues and cells comply with the requirements

referred to in Directive 2004/23/EC, and Directive 2006/17/EC and any annexes thereto;

(c) ensure that human tissue and cells and associated documentation comply with the requirements referred to in Directive 2004/23/EC, and Directive 2006/17/EC and any annexes thereto;

(d) verify and record the fact that the packaging of human tissue and cells received complies with the requirements referred to in Directive 2004/23/EC and Directive 2006/17/EC and any annexes thereto;

(e) discard all tissues and cells that do not comply with those requirements;

(f) document the acceptance or rejection of received tissues or cells;

(g) ensure that human tissues and cells are correctly identified at all times by assigning an identifying code to each delivery or batch of tissues or cells in accordance with Regulation 6 of these regulations.

(h) hold tissue and cells in quarantine until such time as the requirements relating to donor testing and information have been met in accordance with article 15 of the Act;

(i) maintain documentation on operational procedures, guidelines, training and reference manuals and reporting forms so that they are readily available for inspection;

(j) include in their standard operating procedures all processes that affect quality and safety and shall ensure that they are carried out under controlled conditions;

(k) ensure that the equipment used, the working environment and process design, validation and control conditions are in compliance with the requirements referred to Directive 2004/23/EC and any annexes thereto;

(l) ensure that any modifications to the processes used in the preparation of tissues and cells shall also meet the criteria laid down in the preceeding paragraph;

(m) include in their standard operating procedures special provisions for the handling of tissues and cells to be discarded, in order to prevent the contamination of other tissues or cells, the processing environment or personnel;

(n) ensure that all procedures associated with the storage of tissues and cells are documented in the standard operating procedures and that the storage conditions comply with the requirements referred to in Directive 2004/23/EC and any annexes thereto;

(o) ensure that all storage processes are carried out under controlled conditions;

(p) establish and apply procedures for the control of packaging and storage areas, in order to prevent any situation arising that might adversely affect the functioning or integrity of tissues and cells;

(q) not to distribute processed tissues and cells until all the requirements laid down in Directive 2004/23/EC and Directive 2006/17/EC have been met;

(r) have agreements and procedures in place to ensure that, in the event of termination of activities for whatever reason, stored tissues and cells shall be transferred to other tissue establishment or establishments licensed by the Authority;

(s) ensure that labelling and documentation and packaging conform to the requirements set by Directive 2004/23/EC and any annexes thereto; and

(t) ensure the quality of tissues and cells during distribution and that the distribution conditions comply with the requirements set by Directive 2004/23/EC and Directive 2006/17/EC and any annexes thereto;

Relations between tissue establishment and third parties.

5. (1) Tissue establishments shall:

(a) establish written agreements with a third party each time an external activity takes place which influences the quality and safety of tissues and cells processed in cooperation with a third party, and in particular in the following circumstances:

(i) where a tissue establishment entrusts one of the stages of tissue or cell processing to a third party;

(ii) where a third party provides goods and services that affect tissue or cell quality and safety assurance, including their distribution;

(iii) where a tissue establishment provides services to a tissue establishment which is not accredited;

(iv) where a tissue establishment distributes tissue or cells processed by third parties;

(b) evaluate and select third parties on the basis of their ability to meet the standards laid down in Directive 2004/23/EC, and Directive 2006/17/EC and any other annexes.

(c) keep a complete list of the agreements referred to in sub- regulation (1) of this regulation which they have established with third parties; and

(d) provide copies of agreements with third parties at the request of the competent authority or authorities.

(2) Agreements between tissue establishments and third parties shall specify the responsibilities of the third parties and detailed procedures.

6. An establishment shall ensure that: Traceability.

(a) all tissues and cells procured, processed, stored or distributed on their territory can be traced from the donor to the recipient and vice versa. This traceability shall also apply to all relevant data relating to products and materials coming into contact with these tissues and cells;

(b) by means of a donor identification system a unique code is assigned to each donation and to each of the products associated with it;

(c) all tissues and cells are identified with a label that contains the information or references allowing a link to the information referred to in the annexes to Directive 2004/23/EC; and Directive 2006/17/EC; and

(d) the data necessary to ensure traceability at all stages is kept for a minimum of 30 years after clinical use. Data storage may also be in electronic form.

Keeping of records and reporting obligations.

7. (1) Tissue establishments shall keep a record of their activities, including the types and quantities of tissues and, or cells procured, tested, preserved, processed, stored and distributed, or otherwise disposed of, and on the origin and destination of the tissues and cells intended for human applications, in accordance with the requirements referred to in Directive 2004/23/EC and Directive 2006/17/EC and any annexes thereto.

(2) Such establishments shall submit to the Authority an annual report on these activities which shall be publicly accessible.

Notification of serious adverse events and reactions.

8. An establishment shall:

(a) establish and maintain a system to report, investigate, register and transmit information about serious adverse events and reactions which may influence the quality and safety of tissues and cells and which may be attributed to the procurement, testing, processing, storage and distribution of tissues and cells, as well as any serious adverse reaction observed during or after clinical application which may be linked to the quality and safety of tissues and cells;

(b) report any relevant information to establishments engaged in the donation, procurement, testing, processing, storage and distribution of human tissues and cells in order to facilitate traceability and ensure quality and safety control; and

(c) ensure that an accurate, rapid and verifiable procedure is in place which will enable such establishment to recall from distribution any product which may be related to an adverse event or reaction.

Consent.

9. (1) An establishment shall, in relation to the procurement of human tissues or cells:

(a) give all prospective donors of tissues or cells, their relatives or any other person granting consent on behalf of donors, information in accordance with guidelines and authorization requirements as established by the Authority;

(b) obtain from all persons who are willing to donate tissues or cells, their relatives or any other person granting consent on behalf of donors, information in accordance with guidelines and authorization requirements established by the Authority;

(c) put and keep in place procedures for the evaluation of donors in accordance with the requirements set by Directive 2004/23/EC and Directive 2006/17/EC and any annexes thereto;

(d) apply eligibility criteria for all donors of tissues and cells;

(e) maintain records of the results of donor evaluations and report to donors any relevant abnormal findings from the evaluations;

(f) ensure that:

(i) an examination of the donor, including an interview, is carried out before any donation of tissues or cells,

(ii) a qualified health professional is responsible for giving to and gathering from donors the information which is necessary to assess their eligibility to donate, and

(iii) on the basis of that information, a qualified health professional assesses the eligibility of all donors to donate;

(g) encourage voluntary and unpaid tissue and cell donations with a view to ensuring that tissues and cells are, in so far as possible, provided from such donations; and

(h) the tissues and cells are procured, packaged and transported in accordance with the requirements set by Directive 2004/23/EC and Directive 2006/17/EC and any annexes thereto.

Data protection and confidentiality.

10. (1) An establishment shall ensure that all data, including genetic information, collated within the scope of the Act and any regulations made thereunder and to which third parties have access, have been rendered anonymous so that neither donors nor recipients remain identifiable.

(2) For that purpose, the establishment shall ensure that:

(a) data security measures are in place, as well as safeguards against any unauthorised data additions, deletions or modifications to donor files or deferral records, and transfer of information;

(b) procedures are in place to resolve data discrepancies;

(c) no unauthorised disclosure of information occurs, whilst guaranteeing the traceability of donations;

(d) the identity of any recipient is not disclosed to the donor or his family and vice versa, without prejudice to any legislation in force on the conditions for disclosure, notably in the case of gametes donation;

(e) the information which is collected for the purposes of these regulations is held securely so that it is-

(i) available for the purpose of, tracing donations;

(ii) not disclosed except in accordance with one or more of the requirements of sub-regulation (3).

(3) The requirements referred to under sub-paragraph (ii) of paragraph (e) of sub-regulation (2) are that the disclosure:

(a) shall be in accordance with an order of a court, or as may otherwise be required by law;

(b) is made to an inspector appointed by the Authority.

(4) The responsible person of the establishment shall ensure that the results of the donor evaluation and testing procedures are documented and any major anomalies are reported to the Authority in accordance with the requirements referred to in the Annex to Directive 2004/23/EC and any amendments thereto.

Quality management.

11. (1) Each tissue establishment shall put in place and update a quality system based on the principles of good practice.

(2) Such quality system shall include at least the following documentation:

(a) standard operating procedures,

(b) guidelines,

(c) training and reference manuals,

(d) reporting forms,

(e) donor records,

(f) information on the final destination of tissues or cells.

(3) The documentation referred to in sub-regualtion (2) hereof shall be available for inspection by an authorised officer.

(4) Tissue establishments shall keep the data necessary to ensure traceability in accordance with regulation 4 of these regulations.

Requirements for the procurement of human tissues and cells.

12. (1) Procurement of human tissues and cells shall be carried out by persons who have successfully completed a training programme specified by a clinical team specialising in the tissues and cells to be procured or a tissue establishment authorised for procurement.

(2) The establishment or procurement organisation shall have written agreements with the staff or clinical teams responsible for donor selection, unless they are employed by the same organisation or establishment, specifying the procedures to be followed to assure compliance with the selection criteria for donors set out in Annex I of Directive 2006/17/EC.

(3) The establishment or procurement organisation shall have written agreements with the staff or clinical teams responsible for tissue or cell procurement, unless they are employed by the same establishment or organisation, specifying any type of tissues and, or cells and, or test samples to be procured and the protocols to be followed.

(4) (a) There shall be standard operating procedures (SOPs) for the verification of:

(i) donor identity;

(ii) the details of donor or donor family consent or authorisation;

(iii) the assessment of the selection criteria for donors as detailed in regulation 13;

(iv) the assessment of the laboratory tests required for donors as detailed in regulation 14.

(b) There shall also be SOPs describing the procedures for procurement, packaging, labelling and transportation of the tissues and cells to the point of arrival at the tissue establishment or, in the case of direct distribution of tissues and cells, to the clinical team responsible for their application or, in the case of tissue or cell samples, to the laboratory for testing, in accordance with regulation 15.

(5) Procurement shall take place in appropriate facilities, following procedures that minimise bacterial or other contamination of procured tissues and cells, in accordance with regulation 15.

(6) Procurement materials and equipment shall be managed in accordance with the standards and specifications laid down in Annex IV, section 1.3 of Directive 2006/17/EC, and with due regard to relevant national and international regulation, standards and guidelines covering the sterilisation of medicines and medical devices. Qualified, sterile instruments and procurement devices shall be used for tissue and cell procurement.

(7) Procurement of tissues and cells from living donors shall take place in an environment that ensures their health, safety and privacy.

(8) Where appropriate, the staff and equipment necessary for body reconstruction of deceased donors shall be provided. Such reconstruction shall be completed effectively.

(9) The procedures for the procurement of tissues and cells shall be carried out in accordance with the requirements specified in regulation 15.

(10) A unique identifying code shall be allocated to the donor and to the donated tissues and cells, during procurement or at the tissue establishment, to ensure proper identification of the donor and the traceability of all donated material. The coded data shall be entered in a register maintained for the purpose.

(11) Donor documentation shall be maintained in accordance with section 1.4 of Annex IV of Directive 2006/17/EC

Selection criteria for donors of tissues and cells.

13. Tissue and cells establishments shall in respect of donors adopt the selection criteria set out in Directive 2004/17/EC namely:

(a) Annex I for donors of tissues and cells, except donors of reproductive cells;

(b) Annex III for donors of reproductive cells.

Laboratory tests required for donors.

14. (1) It shall be the duty of the establishment to ensure that:

(a) donors of tissues and cells, except donors of reproductive cells, undergo the biological tests set out in point 1 of Annex II of Directive 2006/17/EC;

(b) such tests are carried out in compliance with the general requirements set out in point 2 of Annex II of Directive 2006/17/EC;

(c) donors of reproductive cells undergo the biological tests set out in points 1, 2 and 3 of Annex III of Directive 2006/17/EC;

(d) such tests are carried out in compliance with the general requirements set out in point 4 of Annex III of Directive 2006/17/EC.

Tissue and, or cell donation and procurement procedures and reception at the tissue establishment.

15. The establishment shall ensure that the tissue and, or cell donation and procurement procedures and the reception of tissues and, or cells at the tissue establishment comply with the requirements set out in Annex IV of Directive 2006/17/EC.

Requirements for direct distribution to the recipient of specific tissues and cells.

16. The Authority may authorise the direct distribution of specific tissues and cells from where the procurement is carried out to a health care establishment for immediate transplantation.

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