

ARTIFICIAL CONCEPTION.

No. 14 of 1985.

**AN ACT relating to the status of persons conceived
by artificial means and for related purposes.**

[Assented to 12 April 1985.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Artificial Conception Act 1985*. Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

Interpreta-
tion.

3. (1) A reference in this Act to a married woman includes a reference to a woman who is living with a man as his wife on a genuine domestic basis although not married to him.

(2) A reference (however expressed) in this Act to the husband or wife of a person—

(a) is, in a case where the person is living with another person of the opposite sex as his or her spouse on a genuine domestic basis although not married to the other person, a reference to that other person; and

(b) does not, in that case, include a reference to the spouse (if any) to whom the person is actually married.

(3) A reference in this Act to a fertilization procedure is a reference to—

(a) artificial insemination; or

(b) the procedure of fertilizing an ovum outside the body and transferring the fertilized ovum into the uterus.

Application.

4. (1) The provisions of this Act apply—

(a) in respect of a fertilization procedure carried out before or after the commencement of this Act either within or outside Western Australia; and

(b) in respect of a child born before or after the commencement of this Act either within or outside Western Australia.

(2) Nothing in this Act affects the vesting of property in possession or in interest before the commencement of this Act.

5. (1) Where a married woman undergoes, with the consent of her husband, a fertilization procedure in consequence of which she becomes pregnant and the ovum used for the purposes of the procedure was taken from some other woman, then for the purposes of the law of the State, the married woman is the mother of any child born as a result of the pregnancy.

Rule relating to maternity.

(2) In every case in which it is necessary to determine for the purposes of this section whether a husband consented to his wife undergoing a fertilization procedure, that consent shall be presumed, but the presumption is rebuttable.

6. (1) Where a married woman undergoes, with the consent of her husband, a fertilization procedure in consequence of which she becomes pregnant, then for the purposes of the law of the State, the husband—

Rule relating to paternity.

(a) shall be conclusively presumed to have caused the pregnancy; and

(b) is the father of any child born as a result of the pregnancy.

(2) In every case in which it is necessary to determine for the purposes of this section whether a husband consented to his wife undergoing a fertilization procedure, that consent shall be presumed, but the presumption is rebuttable.

7. (1) Where—

Donor of genetic material.

(a) a woman becomes pregnant in consequence of a fertilization procedure; and

(b) the ovum used for the purposes of the procedure was taken from some other woman, then in a case to which section 5

applies, for the purposes of the law of the State, the woman from whom the ovum was taken is not the mother of any child born as a result of the pregnancy.

(2) Where—

- (a) a woman becomes pregnant in consequence of a fertilization procedure; and
- (b) a man (not being the woman's husband) produced sperm used for the purposes of the procedure,

then in a case to which section 6 applies, for the purposes of the law of the State, the man referred to in paragraph (b)—

- (c) shall be conclusively presumed not to have caused the pregnancy; and
- (d) is not the father of any child born as a result of the pregnancy.

Conse-
quential
amendments
of Acts.

8. The Acts mentioned in the first column of Schedule 1 are amended to the extent to which and in the manner in which they are in the second column of that Schedule expressed to be amended.

SCHEDULE 1.

(Section 8).

AMENDMENTS.

<i>Short title of Act</i>	<i>Amendment</i>
Administration Act 1903	In section 12A, after subsection (2) insert the following subsection— “ (2a) Paragraph (b) of subsection (2) does not apply to or in respect of a relationship established by the Artificial Conception Act 1985. ”.

1985.]

Artificial Conception.

[No. 14.

- Adoption of Children Act 1896 In section 2, in the definition of "relative" after "affinity" insert "or established by the Artificial Conception Act 1985".
- Criminal Code Act 1913 In section 197 of The Criminal Code set out in the Schedule to the Criminal Code Act 1913 appearing in Appendix B to the Criminal Code Act Compilation Act 1913, before "natural" insert "established by the Artificial Conception Act 1985 or".
- In section 198 of The Criminal Code set out in the Schedule to the Criminal Code Act 1913 appearing in Appendix B to the Criminal Code Act Compilation Act 1913 before "natural" insert "established by the Artificial Conception Act 1985 or".
- Evidence Act 1906 In section 38, after "blood relationship" insert "or relationship established by the Artificial Conception Act 1985".
- Property Law Act 1969 In section 31A, after subsection (5) insert the following subsection—
- “ (5a) Subsection (5) does not apply to or in respect of a relationship established by the Artificial Conception Act 1985. ”.
- Wills Act 1970 In section 31, after subsection (2) add the following subsection—
- “ (3) Paragraph (b) of subsection (2) does not apply to or in respect of a relationship established by the Artificial Conception Act 1985. ”.
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