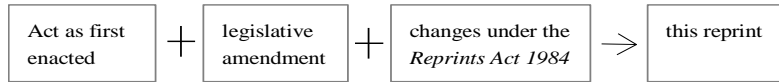Western Australia

Artificial Conception Act 1985

Reprint 1: The Act as at 6 June 2003

Guide for using this reprint

What the reprint includes

Act as first enacted	+	legislative amendment	+	changes under the *Reprints Act 1984*	→	this reprint

Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.

2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.

3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

   Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
   - removed (because it was repealed or deleted from the law); or
   - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

   The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as "Reprint 3" would mean that the reprint was the 3rd reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.

2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

Artificial Conception Act 1985

CONTENTS

Artificial Conception Act 1985

An Act relating to the status of persons conceived by artificial means and for related purposes.

1.   Short title

This Act may be cited as the *Artificial Conception Act 1985* [1].

2.   Commencement

This Act shall come into operation on a day to be fixed by proclamation [1].

3.   Interpretation

(1)   A reference in this Act to a married woman includes a reference to a woman who is living with a man as his de facto partner.

(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 in a de facto relationship with a person of the opposite sex, a reference to the person's de facto partner; and

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

(3)   In this Act —

"artificial fertilisation procedure" has the meaning given by the *Human Reproductive Technology Act 1991*.

[Section 3 amended by No. 3 of 2002 s. 24.]

4.   Application

(1)   The provisions of this Act apply —

(a)   in respect of an artificial fertilisation 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.

[Section 4 amended by No. 3 of 2002 s. 28.]

5.   Rule relating to maternity

(1)   Where a woman undergoes an artificial fertilisation 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 pregnant woman is the mother of any child born as a result of the pregnancy.

[(2)   repealed]

[Section 5 amended by No. 3 of 2002 s. 25 and 28.]

6.   Rule relating to paternity

(1)   Where a married woman undergoes, with the consent of her husband, an artificial fertilisation procedure in consequence of

which she becomes pregnant, then for the purposes of the law of the State, the husband —

    (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 an artificial fertilisation procedure, that consent shall be presumed, but the presumption is rebuttable.

[Section 6 amended by No. 3 of 2002 s. 28.]

6A.   **Rule relating to parentage — same sex de facto relationships**

(1)   Where a woman who is in a de facto relationship with another woman undergoes, with the consent of her de facto partner, an artificial fertilisation procedure in consequence of which she becomes pregnant, then for the purposes of the law of the State, the de facto partner of the pregnant woman —

    (a)   shall be conclusively presumed to be a parent of the unborn child; and

    (b)   is a parent 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 de facto partner consented to her de facto partner undergoing an artificial fertilisation procedure, that consent shall be presumed, but the presumption is rebuttable.

[Section 6A inserted by No. 3 of 2002 s. 26.]

7.   **Donor of genetic material**

(1)   Where —

    (a)   a woman becomes pregnant in consequence of an artificial fertilisation procedure; and

(b) 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 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 an artificial fertilisation procedure; and

(b) a man (not being the woman's husband) produced sperm used for the purposes of the procedure,

then 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.

[Section 7 amended by No. 73 of 1994 s. 4; No. 3 of 2002 s. 27 and 28.]

[8. Omitted under the Reprints Act 1984 s. 7(4)(e).]*

[Schedule 1 omitted under the Reprints Act 1984 s. 7(4)(e).]

Notes

This reprint is a compilation as at 6 June 2003 of the *Artificial Conception Act 1985* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
Artificial Conception Act 1985	14 of 1985	12 Apr 1985	1 Jul 1985 (see s. 2 and *Gazette* 28 Jun 1985 p. 2291)
Statutes (Repeals and Minor Amendments) Act 1994 s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
Acts Amendment (Lesbian and Gay Law Reform) Act 2002 Pt. 4	3 of 2002	17 Apr 2002	21 Sep 2002 (see s. 2 and *Gazette* 20 Sep 2002 p. 4693)

Reprint 1: The *Artificial Conception Act 1985* as at 6 Jun 2003 (includes amendments listed above)