

AUSTRALIAN CAPITAL TERRITORY

Artificial Conception Ordinance 1985

No. 57 of 1985

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 31 October 1985.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

LIONEL BOWEN
Attorney-General

An Ordinance to provide for the parentage of a child conceived as the result of an artificial fertilization procedure

Short title

1. This Ordinance may be cited as the *Artificial Conception Ordinance 1985*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories by notice in the *Gazette*.

Interpretation

3. (1) In this Ordinance, unless the contrary intention appears, "procedure" means—

- (a) artificial insemination; or

- (b) the procedure of transferring into the uterus of a women an embryo derived from an ovum fertilized outside her body.

(2) A reference in this Ordinance to a married women shall be read as including a reference to a women who is living with a man as his wife on a *bona fide* domestic basis although not married to him.

(3) A reference in this Ordinance to the husband or wife of a person shall, where the person is living with another person of the opposite sex as the spouse of that other person on a *bona fide* domestic basis although not married to that other person, be read as including a reference to that other person to the exclusion of the spouse (if any) of the first-mentioned person.

Application

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

- (a) in respect of a pregnancy referred to in section 5, 6 or 7, whether the pregnancy occurred before or after the commencement of this Ordinance and whether or not it resulted from a procedure carried out in the Territory; and
- (b) in respect of any child born before or after the commencement of this Ordinance as a result of a pregnancy referred to in section 5, 6 or 7, whether or not the child was born in the Territory.

(2) Nothing in this Ordinance affects the vesting in possession or in interest of any property that occurred before the commencement of this Ordinance.

(3) Nothing in this Ordinance affects the operation of sections 9, 33, 42 and 43 of the *Adoption of Children Ordinance 1965*.

Presumption of paternity

5. (1) Where a married woman has, with the consent of her husband, undergone a procedure as a result of which she has become pregnant—

- (a) her husband shall, for all purposes, be conclusively presumed to be the father of any child born as a result of the pregnancy; and
- (b) if any of the semen used in the procedure was produced by a man other than the woman's husband—that man shall, for all purposes, be conclusively presumed not to be the father of any child born as a result of the pregnancy.

(2) In any proceedings in which the operation of sub-section (1) is relevant, the consent of a husband to the carrying out of a procedure in respect of his wife shall be presumed, but that presumption is rebuttable.

Presumption of maternity

6. Where a woman has undergone a procedure as a result of which she has become pregnant—

- (a) the woman shall, for all purposes, be conclusively presumed to be the mother of any child born as a result of the pregnancy; and
- (b) if the ovum used in the procedure was produced by another woman— that other woman shall, for all purposes, be conclusively presumed not to be the mother of any child born as a result of the pregnancy.

Donor of semen—other circumstances

7. Where a procedure is carried out in respect of—

- (a) a woman who is not a married woman; or
- (b) a married woman otherwise than with the consent of her husband,

any man who produced semen used in the procedure (not being, in the case of a married woman, her husband) shall, for all purposes, be conclusively presumed not to be the father of any child born as a result of a pregnancy occurring by reason of that procedure.

Amendment of *Seat of Government (Administration) Ordinance 1930*

8. The Second Schedule to the *Seat of Government (Administration) Ordinance 1930* is amended by inserting in Part 1—

“*Artificial Conception Ordinance 1985*”

after—

“*Amendments Incorporation Ordinance 1929*”.

NOTE

- 1. Notified in the *Commonwealth of Australia Gazette* on 7 November 1985.