



Australian Capital Territory

# **Artificial Conception Act 1985 No 57**

**Republication No 7**

**Effective: 19 December 2003**

Republication date: 19 December 2003

Last amendment made by A2003-56

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Artificial Conception Act 1985* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 19 December 2003. It also includes any amendment, repeal or expiry affecting the republished law to 19 December 2003.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Artificial Conception Act 1985

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Australian Capital Territory

## Artificial Conception Act 1985

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An Act to provide for the parentage of a child conceived as the result of an artificial fertilisation procedure, and for other matters

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Artificial Conception Act 1985*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*adoptive parent*—see the *Adoption Act 1993*, including especially section 4 (3).’ means that the term ‘adoptive parent’ is defined in that Act and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 2A Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

### 3 Meaning of married woman, husband and wife

- (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 in this Act to the *husband* or *wife* of a person is, if the person is living with another person of the opposite sex (the *partner*) as the spouse of the partner on a genuine domestic basis

although not married to the partner, a reference to the partner to the exclusion of the spouse (if any) of the firstmentioned person.

## Part 2 Presumptions about parentage

### 4 Application

- (1) The provisions of this part 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 part 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 part 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 part affects the vesting in possession or in interest of any property that occurred before the commencement of this Act.
- (3) Nothing in this part affects the operation of the *Adoption Act 1993*, sections 8, 43, 54 and 55.

### 5 Presumption of paternity

- (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 subsection (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.

## **6 Presumption of maternity**

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.

## **7 Donor of semen—other circumstances**

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.

## Part 3                      Parentage orders

### Division 3.1              Preliminary

#### 8                      References to prescribed parents where there is only 1

If the parentage order about a prescribed child is in favour of only 1 prescribed parent, a reference in this part to the *prescribed parents*, or *both prescribed parents*, of the prescribed child is a reference to the prescribed parent of the child.

### Division 3.2              Obtaining parentage order

#### 9                      Application of div 3.2

- (1) This division applies to a child conceived in the Territory before 1 July 2004 as the result of a procedure carried out in the Territory (whether before or after the commencement of this part) in which the gametes of a woman who is not the child's birth mother, and of a man who is not the child's birth father, were used to create the embryo.
- (2) This division applies to the child only if the child's substitute parents live in the Territory.

#### 10                      Applying for an order

- (1) The substitute parents of a child may apply, in accordance with this section, to the Supreme Court for a parentage order about the child.
- (2) The application may be made by either or both of the substitute parents.
- (3) The application must be made within 6 months after the child was born, but not within 6 weeks after the child was born.

## **11 Making an order**

- (1) The Supreme Court must make a parentage order, if allowed by section 12 (Multiple births), if satisfied that—
  - (a) the making of the order is in the best interests of the child; and
  - (b) both birth parents freely, and with a full understanding of what is involved, agree to the making of the order.
- (2) However, the Supreme Court may dispense with the requirement under subsection (1) (b) for either or both birth parents to agree to the making of a parentage order if satisfied that—
  - (a) the birth parent or birth parents are dead or incapacitated, and—
    - (i) it would not be contrary to the welfare and interests of the child to make the order in favour of the applicants; or
    - (ii) if there is evidence before the court that the birth parent or birth parents, at the time of death or the onset of incapacity, no longer intended the applicants to be the prescribed parents of the child—it would be contrary to the welfare and interests of the child not to make the order in favour of the applicants; or
  - (b) after making reasonable inquiries, the applicants are unable to contact the birth parent or birth parents to obtain the agreement, and—
    - (i) it would not be contrary to the welfare and interests of the child to make the order in favour of the applicants; or
    - (ii) if there is evidence before the court that the birth parent or birth parents no longer intend the applicants to be the prescribed parents of the child—it would be contrary to the welfare and interests of the child not to make the order in favour of the applicants.

- (3) In deciding whether to make a parentage order, the Supreme Court must take the following into consideration if relevant:
- (a) whether the child's home is, and was at the time of the application, with both substitute parents;
  - (b) whether both substitute parents are at least 18 years old;
  - (c) if only 1 of the child's substitute parents has applied for the order, and the other substitute parent is alive at the time of the application, whether the court is satisfied that—
    - (i) the other substitute parent freely, and with a full understanding of what is involved, agrees to the making of the order in favour of the applicant substitute parent; or
    - (ii) the applicant substitute parent is unable to contact the other substitute parent to obtain his or her agreement under subparagraph (i);
  - (d) whether payment or reward (other than for expenses reasonably incurred) has been given or received by either of the child's substitute parents, or either of the child's birth parents, for or in consideration of—
    - (i) the making of the order; or
    - (ii) the agreement required under subsection (1) (b); or
    - (iii) the handing over of the child to the substitute parents; or
    - (iv) the making of any arrangements with a view to the making of the order;
  - (e) whether both birth parents and both substitute parents have received appropriate counselling and assessment from an independent counselling service.
- (4) The Supreme Court may take into consideration any other relevant matter.

- (5) For subsection (3) (e), a counselling service is not *independent* if it is connected with—
- (a) the doctor who carried out the procedure that resulted in the birth of the relevant child (the *relevant procedure*); or
  - (b) the institution where the relevant procedure was carried out; or
  - (c) another entity involved in carrying out the relevant procedure.
- (6) The Supreme Court must make a parentage order under subsection (1)—
- (a) if both substitute parents apply for the order—in favour of both substitute parents; or
  - (b) if only 1 substitute parent applies for the order, and the other substitute parent is dead or incapacitated at the time of the application (unless the court is satisfied that, at the time of death, the deceased substitute parent no longer intended to become a prescribed parent of the child)—in favour of both substitute parents; or
  - (c) if, in any other case, only 1 substitute parent applies for the order—in favour of the applicant substitute parent.

## **12 Multiple births**

- (1) This section applies if a child for whom an application for a parentage order has been made has a living birth sibling.
- (2) The Supreme Court may make a parentage order about the child only if it also makes a parentage order about each living birth sibling of the child.

## **13 Names of prescribed child**

- (1) On the making of a parentage order, the prescribed child has as his or her surname—

- (a) if both prescribed parents are known by the same surname—that surname; or
- (b) in any other case—whichever of the following names that the Supreme Court, on the application of the prescribed parents, approves in the parentage order:
  - (i) the maiden name or other surname of the prescribed mother;
  - (ii) the surname of the prescribed father;
  - (iii) a surname formed by combining the prescribed mother’s maiden name or other surname and the prescribed father’s surname.
- (2) On the making of a parentage order, the prescribed child has as his or her given name or names the name or names that, on the application of the prescribed parents, the Supreme Court approves in the parentage order.
- (3) However, if, before a parentage order is made, the prescribed child had been generally known by a particular name, the Supreme Court may, in the parentage order, order that the child will have the name.
- (4) This section does not prevent the changing of a name of a prescribed child, after the parentage order is made, in accordance with Territory law.

## **Division 3.3 Effect of orders**

### **14 General effect**

- (1) Subject to this part and any Territory law that expressly distinguishes in any way between prescribed children and other children, on the making of a parentage order, for all purposes—
  - (a) the prescribed child becomes in law a child of the prescribed parents, and the prescribed parents become in law the parents

of the child as if the child had been born to the prescribed parents; and

- (b) the prescribed child ceases to be a child of the birth parents or of anyone who was an adoptive parent before the making of the parentage order, and any such person ceases to be a parent of the child; and
  - (c) the relationship to one another of everyone (including the prescribed child and the prescribed parents, birth parents or any former adoptive parent) is to be decided on the basis of paragraphs (a) and (b) so far as they are relevant; and
  - (d) any existing appointment of a person as guardian of the prescribed child ceases to have effect; and
  - (e) any previous adoption of the prescribed child (whether or not under Territory law) ceases to have effect.
- (2) However, for any Territory law relating to a sexual offence where the relationship between people is relevant—
- (a) a parentage order does not cause the cessation of any relationship that would otherwise have existed; and
  - (b) any such relationship is taken to exist in addition to any relationship that exists because of the application of subsection (1).

## **15 Disposition of property**

- (1) Section 14 (1) has effect in relation to dispositions of property—
- (a) whether by will or otherwise; and
  - (b) whether made before or after the commencement of this part.
- (2) However, section 14 (1) does not affect a disposition of property—
- (a) by a person who, or by people any of whom, died before the commencement of this part; or

- (b) that has taken effect in possession before the commencement of this part.
- (3) Section 14 (1) does not apply in relation to an agreement or instrument (other than a disposition of property) made or executed before the commencement of this part.
- (4) If—
  - (a) before the commencement of this part, a person made a disposition of property by an instrument other than a will; and
  - (b) the disposition had not taken effect in possession before the commencement of this part; and
  - (c) it did not appear from the instrument that it was the intention of the person to include a prescribed child as an object of the disposition;the person may vary the instrument to exclude a prescribed child from participation in any right, benefit or privilege under the instrument, even if the instrument could not (apart from this subsection) be revoked or varied by a like instrument.
- (5) Section 14 and this section do not affect the operation of any provision in a will or other instrument (whether made or coming into operation before or after the commencement of this part) distinguishing between prescribed children and other children.
- (6) Section 14 and this section do not affect a right of inheritance that a prescribed child might have from or through his or her birth parent or former adoptive parent if the birth or former adoptive parent dies before the making of the parentage order about the child.

## **16 Distribution of property by trustee or personal representative**

- (1) Despite any other provision of this part, a trustee or personal representative may convey, transfer or distribute property to or among the people appearing to be entitled to the property without

having to find out whether or not a parentage order has been made that may affect a person's entitlement to an interest in the property.

- (2) The trustee or personal representative is liable to a person claiming directly or indirectly an interest in the property because of the making of a parentage order only if the trustee or personal representative had notice of the claim before the conveyance, transfer or distribution.
- (3) This section does not affect the right of a person to follow property into the hands of someone else, other than a genuine purchaser for value without notice.

#### **17 Bequest by will to unascertained prescribed child**

- (1) If, under a will made after the commencement of this part—
  - (a) a disposition of property or of an interest in property (a *bequest*) is expressed to be made by the testator to a person (the *beneficiary*) who is not named but is described as a child of the testator or of a spouse, parent, child, brother or sister of the testator; and
  - (b) a parentage order was or has been made about the beneficiary; and
  - (c) the testator's personal representative is unable to find out the name and location of the beneficiary;

the personal representative must give the public trustee a copy of the will and a statement that the personal representative is unable to find out the name and location of the beneficiary.

- (2) If the public trustee is given a copy of a will under subsection (1), the public trustee must, in writing, request the registrar-general to provide any information in his or her possession that may assist in finding out the name and location of the beneficiary.
- (3) If the registrar-general receives a request under subsection (2), the registrar-general must—

- (a) search the records in his or her possession to assist the public trustee to find out the name and location of the beneficiary; and
  - (b) tell the public trustee of the results of the search.
- (4) If the public trustee finds out that the beneficiary has died, the public trustee must tell the personal representative.
- (5) If the public trustee finds out the name and location of the beneficiary and the beneficiary is at least 18 years old, the public trustee must—
- (a) find out whether the beneficiary wishes to accept the bequest; and
  - (b) if the beneficiary does not wish to accept the bequest—tell the personal representative that the beneficiary does not wish to accept the bequest; and
  - (c) if the beneficiary wishes to accept the bequest—tell the personal representative that the proceeds of the bequest should be transferred to the public trustee on behalf of the beneficiary; and
  - (d) on receiving the proceeds, give them to the beneficiary.
- (6) If the public trustee finds out the name and location of the beneficiary but the beneficiary is younger than 18 years old, the public trustee must—
- (a) tell the personal representative that the proceeds of the bequest should be transferred to the public trustee to be held in trust for the beneficiary; and
  - (b) hold the proceeds on trust for the beneficiary on the trusts (if any) set out in or arising under the will until the beneficiary turns 18 years old; and
  - (c) on the beneficiary turning 18 years old, transfer the proceeds to the beneficiary, unless the beneficiary then disclaims the bequest.

- (7) If a personal representative transfers the proceeds of a bequest to the public trustee under this section, the personal representative is taken to have transferred the bequest to the beneficiary.
- (8) If a written statement to the effect that the beneficiary has disclaimed the bequest is given by the public trustee to the personal representative, the statement is, in the course of the administration of the estate, conclusive evidence that the beneficiary has disclaimed the bequest.
- (9) The public trustee must not include, in information given to a personal representative under this section, particulars that identify or tend to identify the beneficiary.

## **18 Gifts between living people**

Section 17 applies in relation to a deed executed after the commencement of this part by which a gift of money is expressed to be made by a person (the *donor*) to a person about whom a parentage order was or has been made who is not named but who is described as the child of the donor or of a spouse, parent, child, brother or sister of the donor as if—

- (a) a reference in the section to a will were a reference to the deed of gift; and
- (b) a reference in the section to the testator or to a personal representative were a reference to the donor; and
- (c) a reference in the section to property or to an interest in property were a reference to the money that is the subject of the gift.

## Division 3.4 Access to information

### 19 Definitions for div 3.4

In this division:

*associated person*, in relation to a parentage order, means—

- (a) the prescribed child; or
- (b) a birth parent or prescribed parent of the prescribed child; or
- (c) a birth relative or prescribed relative of the prescribed child; or
- (d) a child or other descendant of the prescribed child.

*birth parent*, of a prescribed child, includes anyone who was the guardian of the child before the parentage order was made.

*identifying information*, in relation to a parentage order, means—

- (a) a copy of, or an extract from, an entry in the register of births about the prescribed child; or
- (b) information from which the prescribed child, or a birth parent or birth relative of the child, may be identified (other than information that consists of a residential address).

### 20 Confidentiality of records

(1) Except as provided in this division—

- (a) the records of the Supreme Court (other than an order or decision of the court) relating to proceedings on an application for a parentage order; or
- (b) an entry in the register of births about the birth of a prescribed child, or a copy of or extract from, such an entry;

must not be made available to, or be open to inspection by, anyone.

- (2) However this section does not prevent a person from having access to information if the person's duties require the person to have access to the information for the administration of this part.

## **21 Right of access to identifying information**

- (1) An associated person is entitled to apply for identifying information contained in records kept by the registrar-general.
- (2) A prescribed child (whether or not the child has turned 18 years old) is entitled to apply for—
- (a) identifying information that consists of a copy of, or an extract from, an entry in the register of births about the prescribed child; and
  - (b) any other identifying information only with the written consent of—
    - (i) each of the prescribed child's prescribed parents; and
    - (ii) each of the child's birth parents; and
    - (iii) if a birth relative may be identified from the information—the birth relative.
- (3) A birth relative, prescribed relative or descendant of a prescribed child is entitled to apply for identifying information only with the written consent of each person who may be identified from the information.
- (4) The consent of a person is not required for subsection (2) or (3) if the registrar-general is satisfied that—
- (a) the person is dead; or
  - (b) the location of the person is unknown and could not be found out with reasonable inquiries.

## **22 Provision of information by registrar-general**

- (1) This section applies if, on an application for identifying information—
  - (a) the registrar-general is satisfied that the applicant is entitled to apply for the information; and
  - (b) the appropriate fee determined for the *Births, Deaths and Marriages Registration Act 1997*, section 43 has been paid.
- (2) The registrar-general must search the register of births and issue to the applicant—
  - (a) a copy of, or extract from, the relevant entry; or
  - (b) a notification of the result of the search.
- (3) However, the registrar-general may refuse to make the search, or issue the copy, extract or notification, if satisfied that—
  - (a) the search, copy, extract or notification is required for an improper reason; or
  - (b) the applicant does not have a proper reason for requiring the search, copy, extract or notification.

## **23 Application to Supreme Court in absence of consent**

- (1) If—
  - (a) a person would, under section 21, be entitled to apply for identifying information with the written consent of someone else; and
  - (b) that person has refused to consent;the person may apply to the Supreme Court for an order under subsection (2).

- (2) The Supreme Court may, if satisfied that there are circumstances that justify the order, make an order declaring that the applicant is entitled to apply for the identifying information stated in the order.
- (3) If the Supreme Court makes an order under subsection (2), the applicant for the order is taken, for section 22, to be entitled to apply for the identifying information stated in the order.

## **24 Application to Supreme Court in other circumstances**

- (1) A person may apply to the Supreme Court for an order under subsection (2) if the person—
  - (a) is not entitled under section 21 or 23 to apply for identifying information; or
  - (b) has been refused access to identifying information under section 22 (3).
- (2) The Supreme Court may, if satisfied that there are circumstances that justify the order, make an order declaring that the applicant is entitled to apply for, and to have access to, the identifying information stated in the order.
- (3) If the Supreme Court makes an order under subsection (2), the applicant for the order is taken, for sections 19 and 22, to be entitled to apply for, and to have access to, the identifying information stated in the order.

## **25 Medical information**

- (1) This section applies if—
  - (a) information about the medical or psychiatric condition of an associated person may be disclosed by a medical record holder under a Territory law; and
  - (b) the associated person applies to the medical record holder for the information; and

- (c) the medical record holder considers that the disclosure might be prejudicial to the physical or mental health or wellbeing of the associated person.
- (2) The medical record holder may—
  - (a) refuse to disclose the information to the associated person personally; and
  - (b) instead disclose it (without identifying anyone other than the associated person) to a doctor nominated by the associated person.

## **Division 3.5 Other matters**

### **26 False statements**

A person must not, orally or in writing, wilfully make a false statement for or in relation to an application for a parentage order.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

### **27 Impersonation of birth parents**

A person must not impersonate or falsely represent himself or herself to be a birth parent for or in relation to an application for a parentage order.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

### **28 Presenting forged agreement**

A person must not present to the Supreme Court in relation to an application for a parentage order a document purporting to be an instrument of agreement to the making of the order signed by a birth parent if the signature to the document was, to the person's knowledge, forged or obtained by fraud, duress or other improper means.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

**29 Legal representation of child**

In proceedings on an application for a parentage order about a child, the Supreme Court may make an order for the legal representation of the child.

**30 Proof of parentage orders**

In any proceeding in a court in the Territory, a document purporting to be—

- (a) the original, or a certified copy or certified extract, of a parentage order; or
- (b) an official certificate, entry or record of the making of a parentage order;

is evidence of the facts stated in, and matters appearing from, the document.

## Part 4                      Miscellaneous

### 31      Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

*Note*      The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note*      A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### 32      Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

*Note*      A notifiable instrument must be notified under the *Legislation Act 2001*.

### 33      Regulation-making power

- (1) The Executive may make regulations for this Act.

*Note*      Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may make provision in relation to types and standards of counselling and assessment for section 11 (3) (e).

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## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- disallowable instrument (see s 9)
- Minister (see s 162)
- notifiable instrument (see s 10)
- Supreme Court
- the Territory.

***adoptive parent***—see the *Adoption Act 1993*, including especially section 4 (3).

***associated person***, in relation to a parentage order, for division 3.4 (Access to information)—see section 19.

***birth father***, of a child, means the man presumed under this Act, part 2 or under the *Birth (Equality of Status) Act 1988*, to be the father of the child.

***birth mother***, of a child, means the woman who gave birth to the child.

***birth parent***, of a child, means the child's birth mother or the child's birth father.

***birth parent***, of a prescribed child, for division 3.4 (Access to information)—see section 19.

***birth relative***, of a prescribed child, means a person who was a grandparent, brother, sister, uncle or aunt of the child before the parentage order was made.

***birth sibling***, of a child, means a brother or sister of the child who is born as a result of the same pregnancy as the child.

**genetic father**, of a child, means the man whose gametes were used to create the embryo.

**genetic mother**, of a child, means the woman whose gametes were used to create the embryo.

**guardian**, of a child, includes—

- (a) a person having the custody of the child under an order of a court; and
- (b) a person who is the guardian of the child (whether to the exclusion of, or in addition to, a parent or other guardian) under a Territory, Commonwealth or State law.

**husband**—see section 3.

**identifying information**, in relation to a parentage order for division 3.4 (Access to information)—see section 19.

**married woman**—see section 3.

**parentage order** means an order under section 11.

**prescribed child** means a child about whom a parentage order has been made.

**prescribed father**, of a prescribed child, means the male prescribed parent of the child.

**prescribed mother**, of a prescribed child, means the female prescribed parent of the child.

**prescribed parent**, of a prescribed child, means a substitute parent of the child in whose favour the parentage order has been made.

**prescribed relative**, of a prescribed child, means a person who is a grandparent, brother, sister, uncle or aunt of the child because of the parentage order.

**procedure** means—

- (a) artificial insemination; or

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

**register of births** means the register maintained under the *Births, Deaths and Marriages Registration Act 1997* in which births are registered.

**substitute parent**, of a child in relation to whom a parentage order is applied for, means a person who, because of a substitute parent agreement, has indicated his or her intention to become a prescribed parent of the child.

**substitute parent agreement**, about a child in relation to whom a parentage order is applied for, means a substitute parent agreement within the meaning of the *Substitute Parent Agreements Act 1994* if—

- (a) under the agreement, a man and a woman have indicated their intention to become the prescribed parents of the child; and
- (b) either the man is the child's genetic father, or the woman is the child's genetic mother; and
- (c) the agreement is not a commercial substitute parent agreement within the meaning of that Act.

**wife**—see section 3.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om <input type="checkbox"/> = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Artificial Conception Ordinance 1985* No 57 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

#### Legislation before becoming Territory enactment

##### **Artificial Conception Act 1985 No 57**

notified 7 November 1985

commenced 3 February 1986 (Gaz 1986 No G6)

as amended by

#### Legislation after becoming Territory enactment

##### **Adoption (Consequential Amendments) Act 1993 No 23 s 3**

notified 8 April 1993 (Gaz 1993 No S57)

s 1, s 2 commenced 8 April 1993 (s 2 (1))

s 3 commenced 31 July 1993 (s 2 (2) and Gaz 1993 No 28)

##### **Statute Law Revision Act 1994 No 26 sch**

notified 31 May 1994 (Gaz 1994 No S93)

commenced 31 May 1994 (s 2)

##### **Artificial Conception Amendment Act 2000 No 51 pt 2**

notified 28 September 2000 (Gaz 2000 No 39)

s 1, s 2 commenced 28 September 2000 (IA s 10B)

pt 2 (ss 3-9) commenced 17 November 2000 (Gaz 2000 No S65)

##### **Legislation (Consequential Amendments) Act 2001 No 44 pt 23**

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 23 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

## Endnotes

4 Amendment history

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### **Artificial Conception Amendment Act 2002 No 21**

notified LR 28 June 2002

s 1, s 2 commenced 28 June 2002 (LA s 75 (1))

remainder commenced 29 June 2002 (s 2)

### **Statute Law Amendment Act 2003 (No 2) A2003-56 sch 3 pt 3.3**

notified LR 5 December 2003

s 1, s 2 commenced 5 December 2003 (LA s 75 (1))

sch 3 pt 3.3 commenced 19 December 2003 (s 2)

## 4 Amendment history

title am 2000 No 51 s 4  
am A2003-56 amdt 3.12

### **Preliminary**

pt 1 hdg ins 2000 No 51 s 5

### **Name of Act**

s 1 sub A2003-56 amdt 3.12

### **Dictionary**

s 2 sub 2000 No 51 s 6  
defs reloc to dict A2003-56 amdt 3.14  
sub A2003-56 amdt 3.15

### **Notes**

s 2A ins A2003-56 amdt 3.15

### **Meaning of married woman, husband and wife**

s 3 sub 2000 No 51 s 6  
am A2003-56 amdt 3.16

### **Presumptions about parentage**

pt 2 hdg ins 2000 No 51 s 7

### **Application**

s 4 am 1993 No 23 s 3; 2000 No 51 s 8

### **Parentage orders**

pt 3 hdg ins 2000 No 51 s 9

### **References to prescribed parents where there is only 1**

s 8 om 1994 No 26 sch  
ins 2000 No 51 s 9

### **Application of div 3.2**

s 9 ins 2000 No 51 s 9  
am 2002 No 21 s 4

**Applying for an order**

s 10 ins 2000 No 51 s 9  
(4), (5) exp 17 May 2001 (s 10 (5))

**Making an order**

s 11 ins 2000 No 51 s 9

**Multiple births**

s 12 ins 2000 No 51 s 9

**Names of prescribed child**

s 13 ins 2000 No 51 s 9

**General effect**

s 14 ins 2000 No 51 s 9

**Disposition of property**

s 15 ins 2000 No 51 s 9

**Distribution of property by trustee or personal representative**

s 16 ins 2000 No 51 s 9

**Bequest by will to unascertained prescribed child**

s 17 ins 2000 No 51 s 9

**Gifts between living people**

s 18 ins 2000 No 51 s 9

**Definitions for div 3.4**

s 19 ins 2000 No 51 s 9

**Confidentiality of records**

s 20 ins 2000 No 51 s 9

**Right of access to identifying information**

s 21 ins 2000 No 51 s 9

**Provision of information by registrar-general**

s 22 ins 2000 No 51 s 9

**Application to Supreme Court in absence of consent**

s 23 ins 2000 No 51 s 9

**Application to Supreme Court in other circumstances**

s 24 ins 2000 No 51 s 9

**Medical information**

s 25 ins 2000 No 51 s 9

**False statements**

s 26 ins 2000 No 51 s 9

**Impersonation of birth parents**

s 27 ins 2000 No 51 s 9

## Endnotes

### 4 Amendment history

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#### Presenting forged agreement

s 28 ins 2000 No 51 s 9

#### Legal representation of child

s 29 ins 2000 No 51 s 9

#### Proof of parentage orders

s 30 ins 2000 No 51 s 9

#### Miscellaneous

pt 4 hdg ins 2000 No 51 s 9

#### Determination of fees

s 31 ins 2000 No 51 s 9  
sub 2001 No 44 amdt 1.245

#### Approved forms

s 32 ins 2000 No 51 s 9  
sub 2001 No 44 amdt 1.245

#### Regulation-making power

s 33 ins 2001 No 44 amdt 1.245

#### Dictionary

dict ins A2003-56 amdt 3.17  
def **adoptive parent** sub A2003-56 amdt 3.13  
reloc from s 2 A2003-56 amdt 3.14  
def **associated person** ins A2003-56 amdt 3.17  
def **birth father** reloc from s 2 A2003-56 amdt 3.14  
def **birth mother** reloc from s 2 A2003-56 amdt 3.14  
def **birth parent** reloc from s 2 A2003-56 amdt 3.14  
def **birth parent** ins A2003-56 amdt 3.17  
def **birth sibling** reloc from s 2 A2003-56 amdt 3.14  
def **genetic father** reloc from s 2 A2003-56 amdt 3.14  
def **genetic mother** reloc from s 2 A2003-56 amdt 3.14  
def **guardian** reloc from s 2 A2003-56 amdt 3.14  
def **husband** ins A2003-56 amdt 3.17  
def **identifying information** ins A2003-56 amdt 3.17  
def **married woman** ins A2003-56 amdt 3.17  
def **parentage order** reloc from s 2 A2003-56 amdt 3.14  
def **prescribed child** reloc from s 2 A2003-56 amdt 3.14  
def **prescribed father** reloc from s 2 A2003-56 amdt 3.14  
def **prescribed mother** reloc from s 2 A2003-56 amdt 3.14  
def **prescribed parent** reloc from s 2 A2003-56 amdt 3.14  
def **prescribed relative** reloc from s 2 A2003-56 amdt 3.14  
def **procedure** reloc from s 2 A2003-56 amdt 3.14  
def **register of births** reloc from s 2 A2003-56 amdt 3.14  
def **substitute parent** reloc from s 2 A2003-56 amdt 3.14  
def **substitute parent agreement** reloc from s 2 A2003-56  
amdt 3.14

def **wife** ins A2003-56 amdt 3.17

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1985 No 57	31 May 1991
2	Act 1993 No 23	31 August 1993
3	Act 1994 No 26	1 March 1999
4	Act 2000 No 51	8 December 2000
5	Act 2001 No 44	12 September 2001
6	A2002-21	29 June 2002

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