



ANNO TRICESIMO SEPTIMO
ELIZABETHAE SECUNDAE REGINAE

No. 64 of 1988
**An Act to amend the Status of Children Act 1978 in certain
particulars**

[ASSENTED TO 6TH OCTOBER, 1988]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short Title. This Act may be cited as the *Status of Children Act Amendment Act 1988*.

2. Citation. (1) In this Act the *Status of Children Act 1978* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Status of Children Act 1978-1988*.

3. Amendment of long title. The Principal Act is amended by adding at the end of its long title the words “and to declare with respect to the parentage of children artificially conceived”.

4. New heading. The Principal Act is amended by inserting before section 1 the following heading:—

“PART I—PRELIMINARY”

5. New s. 1A. The Principal Act is amended by inserting after section 1 the following section:—

“**1A. Arrangement.** This Act is arranged in Parts as follows:—

PART I—PRELIMINARY (ss. 1-1A);

PART II—STATUS OF CHILDREN (ss. 2-12);

PART III—PARENTAGE OF CHILDREN (ss. 13-18);

PART IV—MISCELLANEOUS PROVISIONS (ss. 19-20).”.

6. New heading. The Principal Act is amended by inserting before section 2 the following heading:—

“PART II—STATUS OF CHILDREN”

7. Amendment of s. 2. Interpretation. Section 2 of the Principal Act is amended by omitting the word “Act” and substituting the word “Part”.

8. Amendment of ss. 6 and 7. The sections of the Principal Act specified in the first column of the following Table are in each case amended as specified in the second column of the Table:—

TABLE

Section amended	Amendment
Section 6 (Protection of executors, administrators and trustees)	Omit the words "Part V of the <i>Succession Act 1867-1977</i> " and substitute the words "Part IV of the <i>Succession Act 1981-1987</i> "
Section 7 (Recognition of paternity)	

9. **New Part III.** The Principal Act is amended by inserting after section 12 the following heading and sections:—

"PART III—PARENTAGE OF CHILDREN

13. Interpretation. (1) A reference in this Part to a married woman includes reference to a woman who is living with a man as his wife on a bona fide domestic basis although not married to him.

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

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

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

14. Application. (1) The provisions of this Part apply—

(a) in respect of a pregnancy referred to in section 15, 16 or 17, whether the pregnancy occurred before or after the passing of the *Status of Children Act Amendment Act 1988* and whether or not it resulted from a procedure carried out in Queensland; and

(b) in respect of any child born as a result of a pregnancy referred to in section 15, 16 or 17, whether or not the child was born before or after the passing of the *Status of Children Act Amendment Act 1988*.

(2) Nothing in any provision of this Part affects the vesting in possession or in interest of any property that occurred before the passing of the *Status of Children Act Amendment Act 1988*.

15. Artificial insemination; presumption as to status. (1) A reference in this section to a fertilization procedure is a reference to the artificial insemination of a woman where the semen used for the artificial insemination—

(a) was produced by a man other than her husband; or

(b) was a mixture of semen, part of which was produced by a man other than her husband and part of which was produced by her husband.

(2) Where a married woman, in accordance with the consent of her husband, has undergone a fertilization procedure as a result of which she has become pregnant—

(a) the husband shall be presumed, for all purposes, to have caused the pregnancy and to be the father of any child born as a result of the pregnancy;

and

(b) any man, not being her husband, who produced semen used for the procedure shall, for all purposes, be presumed not to have caused the pregnancy and not to be the father of any child born as a result of the pregnancy.

(3) A presumption of law that arises by virtue of subsection (2) is irrebuttable.

(4) In any proceedings in which the operation of subsection (2) is relevant, a husband's consent to the carrying out of a fertilization procedure in respect of his wife shall be presumed but that presumption is rebuttable.

16. Implantation procedure; presumption as to status where donor semen used. (1) A reference in this section to a fertilization procedure is a reference to the procedure of implanting in the womb of a woman an embryo derived from an ovum produced by her and fertilized outside her body by semen produced by a man other than her husband.

(2) Where a married woman, in accordance with the consent of her husband, has undergone a fertilization procedure as a result of which she has become pregnant—

(a) the husband shall be presumed, for all purposes, to have produced the semen used for the fertilization of the ovum used in the procedure and to be the father of any child born as a result of the pregnancy;

and

(b) the man who produced the semen used for the fertilization of the ovum used in the procedure shall, for all purposes, be presumed not to have produced the semen and not to be the father of any child born as a result of the pregnancy.

(3) A presumption of law that arises by virtue of subsection (2) is irrebuttable.

(4) In any proceedings in which the operation of subsection (2) is relevant, a husband's consent to the carrying out of a fertilization procedure in respect of his wife shall be presumed but that presumption is rebuttable.

17. Implantation procedure; presumption as to status where donor ovum used. (1) A reference in this section to a fertilization procedure is a reference to the procedure of implanting in the

womb of a woman an embryo derived from an ovum produced by another woman and fertilized by—

(a) semen produced by the husband of the first-mentioned woman;

or

(b) semen produced by a man other than the husband of the first-mentioned woman.

(2) Where a married woman, in accordance with the consent of her husband, has undergone a fertilization procedure as a result of which she has become pregnant—

(a) the married woman shall be presumed, for all purposes, to have become pregnant as a result of the fertilization of an ovum produced by her and to be the mother of any child born as a result of the pregnancy;

(b) the woman who produced the ovum from which the embryo used in the procedure was derived shall be presumed, for all purposes, not to be the mother of any child born as a result of the pregnancy;

(c) where the semen used for the fertilization of the ovum from which the embryo used in the procedure was derived was produced by the husband of the married woman, the husband shall be presumed, for all purposes, to be the father of any child born as a result of the pregnancy;

and

(d) where the semen used for the fertilization of the ovum from which the embryo used in the procedure was derived was produced by a man other than the husband of the married woman—

(i) the husband shall be presumed, for all purposes, to have produced the semen and to be the father of any child born as a result of the pregnancy;

and

(ii) the man who produced the semen shall be presumed, for all purposes, not to have produced the semen and not to be the father of any child born as a result of the pregnancy.

(3) A presumption of law that arises by virtue of subsection (2) is irrebuttable.

(4) In any proceedings in which the operation of subsection (2) is relevant, a husband's consent to the carrying out of a fertilization procedure in respect of his wife shall be presumed but that presumption is rebuttable.

18. Donor of semen used in artificial insemination of certain women. (1) Where semen is used in a procedure of artificial insemination of a woman who is not married or of a married

woman otherwise than in accordance with the consent of her husband, the man who produced the semen has no rights or liabilities in respect of a child born as a result of a pregnancy occurring by reason of the use of the semen unless, at any time, he becomes the husband of the child's mother.

(2) The rights and liabilities of a man who becomes the husband of the mother of a child born as a result of a pregnancy referred to in subsection (1) are the rights and liabilities of a father of a child but, in the absence of agreement to the contrary, are restricted to rights and liabilities that arise after the man becomes the husband of the child's mother.”.

10. New heading. The Principal Act is amended by inserting immediately before section 13 the following heading:—

“PART IV—MISCELLANEOUS PROVISIONS”

11. Re-numbering ss. 13 and 14. The Principal Act is amended by re-numbering sections 13 and 14 as sections 19 and 20 respectively.