

R E P O R T

Of the Sub-Committee on the Status of Children Born Through Artificial Conception

(Revised pursuant to the deliberations of the Law Reform Committee on 5 July 1997 and 2 August 1997)

26 September 1997

1 Introduction

The Sub-Committee on the Status of Children Born Through Artificial Conception was established by the Law Reform Committee of the Singapore Academy of Law on 2 December 1995 to study whether the popularity of and growing frequency at which artificial conception procedures are being carried out in Singapore and elsewhere calls for an up-dating of the laws currently in force in Singapore. The names of the members of the Sub-Committee appear at Appendix 1 hereto.

The Sub-Committee decided to focus its attention on the status of the parties to artificial conception procedures, particularly that of the child, with a view to clarifying their legal status *vis-a-vis* each other. The members of the Sub-Committee met on several occasions amongst themselves as well as with the members of the Law Reform Committee. This draft Report was drawn up as a result of those deliberations. A draft Bill was also drawn up to illustrate the Sub-Committee's proposals on the reform of the prevailing law. The proposed Status of Children Bill is at Appendix 2 hereto.

1.1 Definitions

For the purposes of this Report, unless the context otherwise requires:

"child", with its grammatical variations and cognate expressions, means any child born through artificial conception as defined in paragraph 1.2 below;

"donor" means any person not being the gestational mother or the father who donates his or her gametes (sperm or eggs, as the case may be) for an artificial conception procedure which results in delivery of the child from the gestational mother;

"father" means the lawful husband of the gestational mother, whether or not he is the genetic father of the child;

"genetic father" means the man who contributed the necessary male gamete (the sperm) the fertilisation by which resulted in the conception of the child;

"genetic mother" means the woman who contributed the necessary female gamete (the egg) the fertilisation of which resulted in the conception of the child, and

"gestational mother" means the woman who is delivered of a child, whether or not she is the genetic mother of the child.

1.2 Artificial Conception Procedures

1.2.1 We recognise that a very wide range of procedures is covered under the description of medically-assisted reproductive techniques. There is a large number of permutations possible within the rubric of medically-assisted reproductive techniques, given the many

variables such as whether the procedure concerned involves *in vitro* or *in vivo* fertilisation, whether fertilisation occurs before or after implantation, whether one or both parties to the marriage are gamete donors, or whether one or both of the gametes necessary are from parties outside the marriage, by whom the embryo so conceived is carried to term and in whom is it intended that the custody of the child so conceived is to be vested upon delivery.¹

1.2.2 For the purposes of this Report, we use the term "**artificial conception**" to mean any of the following procedures in which there is *either* a possibility or certainty (in the absence of genetic testing) that a child is not the genetic product of *both* the gestational mother and the father:

- (a) In any situation where a gestational mother is delivered of a child who has been conceived as a result of the gestational mother having her own eggs fertilised with the sperm of a donor in a procedure involving either *in vitro* or *in vivo* fertilisation. In this procedure, there is certainty that the gestational mother is the genetic mother, but also that the father is not the genetic father. An example of such a procedure would be artificial insemination by donor ("AID") of the mother with sperm from a donor.
- (b) In any situation where a child is conceived as a result of the gestational mother having her own egg fertilised with the sperm of a donor mixed with the sperm of the father in a procedure involving either *in vitro* or *in vivo* fertilisation, the fertilisation not having come about as the natural consequence of sexual relations between the gestational mother and the genetic father. In this procedure, there will be uncertainty (in the absence of genetic testing) as to whether the father or the donor is the genetic father of the child. An example of such a procedure would be artificial insemination by donor / husband ("AIDH"). Such a procedure may be carried out in cases where the husband's semen contains little or no viable sperm, but the couple wishes to preserve the hope or possibility (however remote) that they may be the genetic parents of the child so conceived.
- (c) In any situation where a child is conceived as a result of the gestational mother receiving for gestation in her body an egg or eggs donated by a donor, which eggs have been or are subsequently fertilised *in vitro* or *in vivo* with sperm donated by the husband. In this procedure, there is certainty that the gestational mother is not the genetic mother, but also that the father is the genetic father. An example of such a procedure would be gamete intra-fallopian transfer with donated egg ("GIFT").
- (d) In any situation where a child is conceived as a result of the gestational mother receiving for gestation in her body an egg or eggs donated by a donor, which eggs have been or are subsequently fertilised *in vitro* or *in vivo* with sperm donated by a donor. In this procedure, there is certainty that the gestational mother is not the genetic mother, and also that the father is not the genetic father. An example of such a procedure would be a GIFT procedure with donor sperm ("GIFT-D").
- (e) In any situation where a child is conceived as a result of the gestational mother receiving for gestation in her body an egg or eggs donated by a donor, which eggs have been or is subsequently fertilised *in vitro* or *in vivo* with the sperm of a donor mixed with the sperm of the father. In this procedure, there is certainty that the gestational mother is not the genetic mother, but there is uncertainty (in the absence of genetic testing) that the father is the genetic father. An example of such a procedure would be a GIFT procedure with donor sperm mixed with the sperm of the father ("GIFT-DH").

- 1.3 Some of the procedures involved in artificial conception have generated controversy. Of these, possibly the most notable is the surrogacy or so-called "womb-for-hire" situations, in which a woman agrees or purports to agree to carry a child for another, the child having been conceived by artificial insemination *in vitro* or *in vivo*, with the egg having been contributed either by the woman herself or by another.
- 1.4 It is not within the direct remit of this Committee to decide the limits of morality in the field of medically assisted reproductive techniques. Hence, we exclude from consideration situations and procedures which involve surrogacy arrangements. GIFT-D and GIFT-DH situations are to be distinguished from surrogacy arrangements, however, on the basis that in GIFT-D and GIFT-DH cases, the gestational mother enters into the procedure with the consent of the father, with the intention that the child should be conceived and carried *in utero* by the gestational mother to be brought up by the gestational mother and the father together as a child of their marriage. However, we suggest that in the context of Singapore's social, cultural and ethical mores, further study needs to be done on the issue of surrogacy with a view of determining whether this practice should be permitted in Singapore and, if so, the conditions under which this can be permitted.

2 The Legal Status of the Child

The Current Law

- 2.1 One of the most pressing issue arising out of recent advances in the field of medically assisted reproductive procedures relates to the status of children born of such procedures, whose conception would not otherwise have been achievable.
- 2.2 Where the gametes giving rise to the child are contributed solely by the parties to the marriage, and where the child so conceived is carried in gestation by the gestational mother, we see no legal difficulties either in common law or statutory law in defining the status of the child. Procedures in this category would include *in vitro* or *in vivo* fertilisation procedures (IVF) or gamete intra-fallopian transfer (GIFT) procedures in which the egg and sperm used are from the parties to the marriage, and to which procedures both parties to the marriage have given their consent. In these cases, the child conceived and born of such a procedure is certainly the genetic product of the parties to the marriage. We consider that there is no issue under the existing law as to the legitimacy or status of such children, in that the law treats these children on the same footing as children conceived through sexual intercourse of the parties to a marriage.
- 2.3 Difficulties, however, arise in cases where the child is conceived as a result of a procedure in which one or both of the parties are not the donors of the gametes used in the procedure (AID, GIFT-D procedures). These same difficulties also arise in procedures like AIDH and GIFT-DH where there is a degree of *uncertainty* as to whether one or both parties to the marriage are gamete donors to the procedure resulting in the conception of the child. In the usual case of procedures such as AIDH or GIFT-DH involving the fertilisation of eggs with mixed semen obtained from the father and a donor, the aspect of uncertainty of the genetic paternity of the child conceived from the operation is deliberately desired by the gestational mother and the father, in order to preserve the hope or possibility (however remote) that the child conceived may still be a genetic product of both parties to the marriage.

Common Law

- 2.4 In such cases, the legitimacy of a child may be challenged by the father at common law if it can be demonstrated (for instance, by genetic testing, or by proof of

impossibility of conjugal access during the relevant period) that the father was not the genetic father of the child. If the procedure is carried out without the consent of the father, it may constitute a breach of the contract of marriage. Thus, given the present state of the law, a husband who consents to artificial insemination of his wife with donor sperm may, notwithstanding his consent, be able to subsequently challenge the paternity and therefore the legitimacy of the child at a later stage when the marriage has broken down.

So too, there may be uncertainty about the relation of the child to its gestational mother; while the common law presumes that the gestational mother is the mother of the child, there may be scope for challenge if the child is conceived through the fertilisation of eggs contributed by another.

We also note that the issues of legitimacy, and the rights and duties of a mother and of a father at common law may not always coincide with the issue of custody, as demonstrated by the custody disputes in surrogacy cases².

- 2.5 The current state of the common law in England (which the Warnock Committee described as a "legal vacuum"³) affords little direction, and it is unlikely to be resolved at common law at any time in the future because of the passage of the Human Fertilisation and Embryology Act 1990 (Cap. 37 of 1990) ("the HFEA") which addresses specifically these difficulties. To our knowledge, there are no Singapore cases on record dealing with the legal status of such children.

Statutory Law

- 2.6 There are currently no legislative provisions dealing specifically with the status of children born of artificial conception. The legal status of children and the rights as between parent and child are at the present time dealt with in a number of provisions scattered over several statutory instruments. These include:

- (a) *Section 114 of the Evidence Act*, which lays down the general rule as to the presumption of legitimacy. The fact that a child was born in wedlock, or within 280 days after the dissolution of a marriage is to be taken as conclusive proof that he or she is the legitimate child of "that man, unless it can be shown that the parties had no access to each other at any time when he could have been begotten". The scope for ambiguity and legal challenge here is obvious - can the father (as defined in this Report) subsequently challenge the paternity of the child even after giving his consent for AID on the basis of this provision?

Section 114 also wholly fails to address the question of the status of the gestational mother in situations where the egg fertilised and implanted for gestation in her womb has been donated by another woman. Although we accept that at common law, the gestational mother would be presumed to be the lawful mother of the child, the issue of custody entitlement is not beyond question if the donor of the egg, or (more likely) the intended adoptive mother in a surrogacy arrangement should seek to challenge the rights of the gestational mother. In its present formulation, section 114 is only clear in its application to children conceived through sexual intercourse between spouses during the existence of a marriage.

- (b) *Section 3 of the Intestate Succession Act*, which defines "child" as a "legitimate child and includes any child adopted by virtue of an order of court". The Act does not define what is meant by "legitimate".

- (c) *Section 84 of the Women's Charter*, which defines a "child of the marriage" as any child of the husband and wife and includes any adopted child and any other child who was a member of the family of the husband and wife at the time when they ceased to live together or at the time immediately preceding the institution of divorce proceedings. This definition applies to Part IX of the Act.
- (d) *Section 3 of the Adoption of Children Act* provides for the adoption of an infant by the mother or father of the infant. In this provision, the term "father" is defined, but the term "mother" is not.

- 2.7 The issue of the status in law of a child born through artificial conception procedures is not directly covered or addressed in any of the foregoing statutory provisions, nor would it be reasonable to expect them to in view of the fact that their provisions were largely or wholly drafted before such procedures became available or feasible or were introduced in Singapore. In particular, the words of section 114 of the Evidence Act (which must be regarded as the principal provision governing the definition of legitimacy in Singapore) are not apt to cover a situation that could not have been envisaged at the time it was drafted. Our conclusion is that the status of children born through artificial conception is as much in doubt and subject to uncertainty in statutory law as it is in the common law.
- 2.8 Such uncertainty may discourage married couples who are otherwise unable to have children from seeking medical help. Legal uncertainty will also have the effect of discouraging useful and beneficial research in the field of assisted reproductive medicine. Potential donors may be discouraged by the thought or possibility that the common law may hold them responsible for the genetic paternity of a child conceived with their donated sperm. It may also be unjust to the mother if the father who had previously given his consent subsequently seeks to exploit the uncertainty at common law to challenge the paternity and legitimacy (and hence his legal responsibilities and duties as a parent) of the child.
- 2.9 Most of all, it is not in the interest of children born of artificial conception procedures for there to be any doubt or uncertainty as to their legal status. While the common law takes the approach (undoubtedly right, in our view) that in such matters, the welfare of the child should be the first and paramount consideration⁴, any challenge to the status of the child does not lessen or prevent the infliction of trauma on innocent parties, such as the child or the gestational mother, that such an action would inevitably entail.
- 2.10 Artificial conception procedures, particularly AID, have been available for a substantial period and there are numerous children who have been conceived through such procedures. The legal status of such persons is at present not in tandem with the intentions of the parties, ie. their genetic and social parents who conceived them. It is thus only appropriate that their status be regularised to what it was intended to be. Regularising the status of children born through artificial conception would also remove the legal uncertainties surrounding their relationships with other members of society.

3 Recommendations

- 3.1 On a review of the materials and precedents made available to the Committee, we recommend that legislation be proposed to clarify the status of children born through medically assisted reproductive procedures.

The Mother and the Child

- 3.2 The prevalent view adopted in other jurisdictions is that the gestational mother would be considered the "mother" of a child born through artificial conception. Further, in jurisdictions such as France and Canada, it is advocated that no parental responsibility should lie with a third-party donor of gametes (whether sperms or eggs) to safeguard family and donor privacy. Although legislation in this area is still pending in France and Canada, several states in Australia have in place laws to supplement the common law presumption that the gestational mother of a child born through artificial conception is the "mother" of that child.
- 3.3 Victoria, for example, amended its Status of Children Act 1974 in 1988 to introduce *inter alia* section 10E, which provides that where a married woman (which term has been defined to include one who is living with a man as his wife on a bona fide domestic basis although not married to him - section 10A) has undergone the procedure of implanting in her womb an embryo of another woman, she is irrebutably presumed for all purposes to be the mother of any child born as a result of the pregnancy whilst the donor is presumed for all purposes not to be the mother of any child born as a result of the pregnancy (section 10E(2)(a) and (b)). The provisions in Queensland, Australia, are identical.
- 3.4 Having studied the position in various jurisdictions, we find that section 27 of the HFEA offers a good model for the definition of "mother" for the purposes of the law in relation to a child born of medically assisted reproductive procedures. The relevant provision of the HFEA reads as follows:

"(1) The woman who is carrying or has carried a child as a result of the placing in her of an embryo or of sperm and eggs, and no other woman, is to be treated as the mother of the child

(2) Subsection (1) above does not apply to any child to the extent that the child is treated by virtue of adoption as not being the child of any person other than the adopter or adopters.

(3) Subsection (1) above applies whether the woman was in the United Kingdom or elsewhere at the time of the placing in her of the embryo or the sperm and eggs. "

Such a provision makes it clear that the gestational mother principle would apply in all cases of artificial conception: the lawful mother of the child shall be the woman who carries the child in gestation. This would cover both GIFT-D and GIFT-DH cases in which there is a possibility or certainty that neither the woman nor her lawful husband is the genetic parent of the child so conceived. It would also apply to any procedures in which the woman's own eggs were removed from her for *in vitro* fertilisation (whether with the sperm of her lawful husband or that of a donor) and re-implanted in her. We have modified the original HFEA provision by adding the phrase "or as a result of her artificial insemination" to make clear that this provision would also apply in straightforward artificial insemination cases, where the woman is fertilised *in vivo* through artificial means (other than sexual intercourse) with sperm from her husband or a donor. The provision we propose deliberately makes no reference to the marriage status of the woman, on the footing that the child so conceived should at least have the certainty of having one parent in the eyes of the law, the gestational mother.

- 3.5 We note, in section 27(2) of the HFEA, provision to the effect that the law establishing the legal status of a child born through artificial conception *vis-a-vis* the gestational mother does not affect the application of adoption laws where such a child is subsequently adopted. An identical provisions appears in relation to a child born

through artificial conception and the person who is the father of such a child by virtue of the HFEA. Such provision ensures that the legislation which clarifies the status of children born through artificial conception does not appear to override the laws governing adoption of children. This would certainly give comfort to potential adopters and adoptees alike, of children who are born through artificial conception, and assure them that the adoption of such children will be no less complete than adoption of children born through natural conception. Accordingly, we propose to incorporate a provision similar to sections 27(2) and 28(5)(c) of the HFEA in the proposed legislation clarifying the status of children born through artificial conception.

- 3.6 We would further recommend, however, that consideration be put to the eventual enactment of legislative provisions which would set out a regulatory framework governing medically assisted reproductive procedures which would address such important and fundamental issues, such as, whether medically assisted reproductive services may be extended to unmarried persons, the question of the anonymity of donors, whether the gametes of deceased donors should be used, and whether consent should always be obtained from both prospective parents and donor before such procedures are carried out. Ideally, such a regulatory framework would ensure that only those procedures which we have defined as artificial conception could be carried out in Singapore. We recognise however, that it would be impractical and unfair to define motherhood and fatherhood only in relation to the procedures that we have defined as artificial conception because if a child was born of procedures not falling within our definition of artificial conception, it would be born with a legal disability not of its own making. It would also be impractical to forbid couples from going abroad for medically assisted reproductive procedures not approved or available in Singapore.
- 3.7 We believe that the legislation as suggested would remove any uncertainty or ambiguity as to the status of the child in relation to its gestational mother in law, and vice versa. It lays down a simple and natural rule: the mother of any child is the woman who carried the child in gestation and was delivered of it in due course. On its own, the proposed provision would prevent the possibility of the legal status of the child in relation to its gestational mother being challenged on the basis that the mother had entered into an agreement to carry the child for another (a "surrogacy" arrangements). In the HFEA, surrogacy arrangements are provided for under section 30 of that Act. As mentioned in paragraph 1.4, this is an issue which requires further study, particularly of its social, cultural and ethical implications.

The Father and Child

- 3.8 This is a much more difficult issue than that of presumed legal motherhood. Generally, other jurisdictions have dealt with this problem by proposing a statutory presumption that the husband or male partner of a woman who undergoes some artificial conception procedure with his consent shall be the father of the child born as a result of such procedure. In Victoria and Queensland, Australia, such a presumption is irrebuttable upon proof that the woman had undergone the procedure with the consent of her husband or male partner. In the UK, the approach (in section 28 of the HFEA) is similar, except that the UK provision only applies to couples of valid marriages and putative marriages.
- 3.9 Subject to the proviso outlined in paragraph 3.10 below, we suggest that the law should recognise the principle that a man be conclusively presumed to be the father (and no other) of a child born of artificial conception procedures if:
- (a) the child is carried by and delivered of a woman who was his lawful wife at the time when the artificial conception procedures were carried out, and
 - (b) he had consented to the artificial conception procedures being carried out.

If these conditions are satisfied, then regardless of the genetic parentage (whatever that may be) of the child so conceived and born, the child should be conclusively regarded as the legitimate child of the man and of no other person, whether or not the woman was in Singapore or elsewhere at the time of the placing in her of the embryo or the sperm and eggs or her artificial insemination. We believe that it is desirable to limit this provision to the context of a marriage recognised as being valid under the laws of Singapore (this would cover, for instance, putative marriages under section 105 of the Women's Charter where the parties bona fide and reasonable believed that they had contracted a valid marriage). As proposed, an unmarried woman who conceives and is delivered of a child born of artificial conception would be in the same position as if she had conceived the child through sexual intercourse with her partner.

3.10 We believe, however, that there should be one exception to the proposed rule. Where a child is conceived as a result of sexual relations between a woman and a man who is not her husband (hereinafter referred to as the "male partner"), then under the existing law, the child is treated as being illegitimate in that it has been born out of wedlock. But the fact that the child is illegitimate does not in law absolve the male partner from the responsibilities and duties that law imposes upon fathers in relation to their children. It is open to the mother (or the child by its guardian or next friend) to apply to court to hold the male partner to his lawful responsibilities and duties to the child. The relationship between the child and the alleged father may be proved simply by blood or genetic testing procedures.

3.11 We believe that the situation should not be any different in the case where the woman is artificially inseminated with the consent and full knowledge of the male partner, with a view to bringing up the child so conceived as a child of the relationship, regardless of the genetic parentage of the child. In such a case, the law should make it clear that the mother or the child (through its guardian or next friend in law) should be at liberty to make an application to court for an order that the male partner be declared to be the father of the child. In such a situation, the child would remain illegitimate. However, by virtue of the order of court, the male partner would have the responsibilities and duties of a father, and would be in the same position as the father of a child who is born out of wedlock. Such a proviso is necessary in order to prevent the male partner from taking advantage of the presumption proposed in paragraph 3.9 above to escape his legal responsibilities and duties to the child. His position is different from that of the normal anonymous donor in that it is the expressed intention of both the mother and her male partner that she would undergo artificial conception so as to produce a child of the relationship.

The Donor and Child

3.12 We also suggest that the legislation provide explicitly that a donor of sperm (not being the lawful husband of the gestational mother) for artificial conception should not in any circumstances be held to be the father of the child so conceived, except under the circumstances outlined in paragraphs 3.10 and 3.11 above. Likewise, a woman who donates eggs to another should not be in any circumstances to be held to be the mother of the child so conceived, although this would probably be implicit in the provision that we have already suggested above. A further issue which is relevant here is whether the law should address the question of anonymity or the privacy of donors, or of the control of information relating to donors. This can be taken up separately.

Legitimation by Subsequent Consent

3.13 We would recommend that, regardless of how a child was conceived, if the husband of the gestational mother has, with full knowledge of the circumstances of its

conception, treated the child as a member of his family, then whether or not he had consented to the child's artificial conception, he should be regarded as the lawful father of the child with all the attendant obligations and benefits of fatherhood. The child would accordingly be his child and heir, with all the attendant benefits and obligations. This would be consistent with the expectations of both the child and his gestational mother, as well as that of the society they live in. We appreciate that the relevant facts may in some instances be difficult to establish. However, such a principle is not unknown to the law as a precedent exists in section 70 of the Women's Charter. We are confident that, should the facts in any one case be disputed, it can be resolved in the courts. This is no different from the situation where a dispute arises in respect of the applicability of section 70 of the Women's Charter.

Scope

3.14 We note that, under the HFEA, there is no provision specifying the scope of applicability of the provisions therein contained, except for purposes of an application to court for parental orders. This omission is not significant as, in the absence of any legislative provision specifying the applicability of rules on personal status, the rules of private international law would apply to determine the applicable law. However, we are mindful that, in Singapore, it is common for legislation affecting the status of persons to provide for the scope of applicability (see, for example, section 3 of the Women's Charter, and section 3 of the Legitimacy Act). This is useful in order to prevent disputes arising as to which rules of private international law should apply in determining the law governing a person's status in a disputed situation.

3.15 Hence, at the suggestion of the Law Reform Committee, and with expert legislative drafting assistance from Mr Charles Lim Aeng Cheng, Deputy Head of the Legislation Division of the Attorney-General's Chambers, an application provision has been incorporated in the Status of Children Bill. This provision sets out the connecting factors similar to those found under private international law for the legislation to apply, namely, that the child resulting from any artificial conception procedure must be born in Singapore, or either the gestational mother or (if she is married) her husband is domiciled in Singapore at the time of the child's birth, wherever the birth take place. This provision has been carefully considered and is accepted with the belief that it is unlikely to give rise to any difficulties.

Retroactivity

3.16 In view of the fact that many children have already been born in Singapore of artificial conception procedures, it is desirable that the proposals outlined in this paper be given retrospective effect, and the wording of the proposed amendments or provisions should accordingly reflect this.

¹ See Bernard Dickens, "Reproduction Law and Medical Consent" (1985) 35 *Toronto Law Journal* 255, at 280; and Alexander Capron, "Alternative Birth Technologies: Legal Challenge" (1987) 20 *UC Davis Law Review* (reproduced in Kennedy & Grubb, *Medical Law* (2nd edition) (London: 1994, Butterworths) at 762.

² See, for example, *Re P (Minors) (Wardship: Surrogacy)* [1987] 2 FLR 421.

³ The Report of The Committee of Inquiry Into Human Fertilisation and Embryology (Cmd. 9314), at 4.16. The Committee of Inquiry was chaired by Dame Mary Warnock.

⁴ *Re P (Minors) (Wardship: Surrogacy)* supra.

Appendices

4.1 The materials considered by or referred to by the Sub-Committee in the preparation of this Report are annexed hereto as Appendix 3.

MR JEFFREY CHAN WAH TECK

Chairman

Senior State Counsel

Attorney-General's Chambers



MR FRANCIS TSENG

Senior State Counsel

Attorney-General's Chambers



MR FOO KIM BOON

Dy Senior State Counsel

Attorney-General's Chambers



MR TERRY KAAN

Lecturer, Law Faculty

National University of Singapore



MS KUAH BOON THENG

Advocate & Solicitor

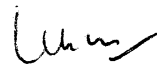
M/s Khattar Wong & Partners



MR CHUA LEE MING

Advocate & Solicitor

M/s Lee & Lee



MS MELINDA MOOSA

Secretary

State Counsel

Attorney-General's Chambers



**MEMBERS OF THE LAW REFORM SUB COMMITTEE
ON THE STATUS OF CHILDREN BORN THROUGH
ARTIFICIAL CONCEPTION**

Mr Jeffrey Chan Wah Teck
Senior State Counsel
Attorney-General's Chambers

... Chairman

Mr Francis Tseng
Senior State Counsel
Attorney-General's Chambers

Mr Foo Kim Boon
Dy Senior State Counsel
Attorney-General's Chambers

Mr Terry Kaan
Lecturer, Law Faculty
National University of Singapore

Ms Kuah Boon Theng
Advocate & Solicitor
M/s Khattar Wong & Partners

Mr Chua Lee Ming
Advocate & Solicitor
M/s Lee & Lee

Ms Melinda Moos
State Counsel
Attorney-General's Chambers

... Secretary

**STATUS OF CHILDREN ACT 1997
(NO. OF 1997)**

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement
 2. Meaning of "Mother"
 3. Meaning of "Father"
 4. Application of sections 11 and 12
 5. Savings
-

A BILL

intituled

An Act relating to status of children and matters connected therewith and to repeal the Legitimacy Act (Chapter 162 of the 1985 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Status of Children Act 1997 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

[set out provisions of Legitimacy Act up to section 10, delete section 11 and insert the following provisions after section 10]

Meaning of "Mother"

11.—(1) Where a woman carries or has carried a child as a result—

(a) of the placing in her of an embryo or of sperm and egg; or

(b) of her artificial insemination, the woman shall be treated as the mother of the child (referred to in this Act as the gestational mother).

(2) Subsection (1) applies whether or not the gestational mother was in Singapore or elsewhere at the time of the placing in her of the embryo or the sperm and egg or at the time of her artificial insemination.

(3) Where a person is treated as the mother of a child by virtue of subsection (1), no other person is to be treated as the mother of the child.

Meaning of "Father"

12.—(1) Subject to subsection (2), where the gestational mother was a party to a marriage at the time of the placing in her of the embryo or the sperm and egg or at the time of her artificial insemination, and the child which the gestational mother is carrying or has carried was not brought about with the sperm of her husband, her husband shall be treated as the father of the child unless it is proved that he did not consent to the placing in her of the embryo or the sperm and egg or to her artificial insemination, as the case may be.

(2) Where the husband of the gestational mother did not consent to the placing in her of the embryo or the sperm and egg or to her artificial insemination, he shall nevertheless be treated as the father of the child referred to in subsection (1) if he has accepted the child as a member of his family.

(3) The child referred to in subsection (1) or (2) shall be treated as legitimate and a child of the marriage from the time of the birth of the child.

(4) Any reference in this section to a marriage includes a reference to a void marriage if, at the time of such void marriage, both or either of the parties reasonably believed that the marriage was valid.

(5) Where the gestational mother —

(a) was not married;

(b) was living with a man in a relationship as his spouse on a bona fide domestic basis at the time of the placing in her of the embryo or the sperm and egg or at the time of her artificial insemination; and

(c) is carrying or has carried the child with the consent of the man that the child shall be a child of the relationship between the man and the gestational mother, whether such consent was given at the time of the placing in her of the embryo or the sperm and egg or at the time of her artificial insemination, or at any time thereafter,

the High Court shall have jurisdiction, upon the application of the gestational mother or the child, to make a decree declaring that the man be treated as the father of the child.

(6) Where a person is treated as the father of a child by virtue of this section, no other person is to be treated as the father of the child.

(7) Nothing in subsection (5) shall be construed as having the effect of conferring the status of legitimacy on the child.

Application of sections 11 and 12

13.—(1) Sections 11 and 12 apply where —

(a) either the gestational mother or, if she is married, her husband, is domiciled in Singapore at the time of the birth of the child referred to in section 11 or 12; or

(b) the child referred to in section 11 or 12 is born in Singapore.

(2) Sections 11 and 12 apply whether the child referred to in those sections was born before, on or after the date of commencement of this Act.

(3) Sections 11 and 12 shall not apply to any child to the extent that the child is treated by virtue of adoption as not being the child of any person other than the adopter or adopters.

(4) Where by virtue of section 11 or 12, a person is to be treated as the mother or the father of a child, that person is to be treated in law as the mother or the father of the child, as the case may be, for all purposes; and any reference to "mother", "father", "parent" or "child" with its grammatical variations and cognate expressions in any written law or other document shall be construed accordingly.

(5) Sections 11 and 12 apply whether or not the child referred to in those sections is or was being carried as a result of an embryo, sperm or egg produced from or by any person other than the person who is treated as the mother or the father of the child by virtue of section 11 or 12, as the case may be.

Savings

14. Nothing in this Act shall affect the operation or construction of any disposition coming into operation before the date of commencement of this Act or affect any rights under the intestacy of a person dying before that date.

EXPLANATORY STATEMENT

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

MM(NJ)/status (melindal)

APPENDIX 3

Text of the Human Fertilisation and Embryology Act 1990

- (5) The Authority shall publish the code as for the time being in force.
- (6) A failure on the part of any person to observe any provision of the code shall not of itself render the person liable to any proceedings, but—
- (a) a licence committee shall, in considering whether there has been any failure to comply with any conditions of a licence and, in particular, conditions requiring anything to be “proper” or “suitable”, take account of any relevant provision of the code, and
- (b) a licence committee may, in considering, where it has power to do so, whether or not to vary or revoke a licence, take into account any observance of or failure to observe the provisions of the code.

Procedure for approval of code.

26.—(1) The Authority shall send a draft of the proposed first code of practice under section 25 of this Act to the Secretary of State within twelve months of the commencement of section 5 of this Act.

(2) If the Authority proposes to revise the code or, if the Secretary of State does not approve a draft of the proposed first code, to submit a further draft, the Authority shall send a draft of the revised code or, as the case may be, a further draft of the proposed first code to the Secretary of State.

(3) Before preparing any draft, the Authority shall consult such persons as the Secretary of State may require it to consult and such other persons (if any) as it considers appropriate.

(4) If the Secretary of State approves a draft, he shall lay it before Parliament and, if he does not approve it, he shall give reasons to the Authority.

(5) A draft approved by the Secretary of State shall come into force in accordance with directions.

Status

Meaning of “mother”.

27.—(1) The woman who is carrying or has carried a child as a result of the placing in her of an embryo or of sperm and eggs, and no other woman, is to be treated as the mother of the child.

(2) Subsection (1) above does not apply to any child to the extent that the child is treated by virtue of adoption as not being the child of any person other than the adopter or adopters.

(3) Subsection (1) above applies whether the woman was in the United Kingdom or elsewhere at the time of the placing in her of the embryo or the sperm and eggs.

Meaning of “father”.

28.—(1) This section applies in the case of a child who is being or has been carried by a woman as the result of the placing in her of an embryo or of sperm and eggs or her artificial insemination.

(2) If—

(a) at the time of the placing in her of the embryo or the sperm and eggs or of her insemination, the woman was a party to a marriage, and

(b) the creation of the embryo carried by her was not brought about with the sperm of the other party to the marriage, then, subject to subsection (5) below, the other party to the marriage shall be treated as the father of the child unless it is shown that he did not consent to the placing in her of the embryo or the sperm and eggs or to her insemination (as the case may be).

(3) If no man is treated, by virtue of subsection (2) above, as the Father of the child but—

(a) the embryo or the sperm and eggs were placed in the woman, or she was artificially inseminated, in the course of treatment services provided for her and a man together by a person to whom a licence applies, and

(b) the creation of the embryo carried by her was not brought about with the sperm of that man, then, subject to subsection (5) below, that man shall be treated as the father of the child.

(4) Where a person is treated as the father of the child by virtue of subsection. (2) or (3) above, no other person is to be treated as the father of the child.

(5) Subsections (2) and (3) above do not apply—

(a) in relation to England and Wales and Northern Ireland, to any child who, by virtue of the rules of common law, is treated as the legitimate child of the parties to a marriage,

(b) in relation to Scotland, to any child who, by virtue of any enactment or other rule of law, is treated as the child of the parties to a marriage, or

(c) to any child to the extent that the child is treated by virtue of adoption as not being the child of any person other than the adopter or adopters.

(6) Where—

(a) the sperm of a man who had given such consent as is required by paragraph 5 of Schedule 3 to this Act was used for a purpose for which such consent was required, or

(b) the sperm of a man, or any embryo the creation of which was brought about with his sperm, was used after his death. he is not to be treated as the father of the child.

(7) The references in subsection (2) above to the parties to a marriage at the time there referred to—

(a) are to the parties to a marriage subsisting at that time, unless a judicial separation was then in force, but

(b) include the parties to a void marriage if either or both of them reasonably believed at that time that the marriage was valid; and for the purposes of this subsection it shall be presumed, unless the contrary is shown, that one of them reasonably believed at the time that the marriage was valid.

(8) This section applies whether the woman was in the United Kingdom or elsewhere at the time of the placing in her of the embryo or the sperm and eggs or her artificial insemination.

(9) In subsection (7)(a) above, “judicial separation” includes a legal separation obtained in a country outside the British Islands and recognised in the United Kingdom.

Effect of sections 27 and 28.

29. (1) Where by virtue of section 27 or 28 of this Act a person is to be treated as the mother or father of a child, that person is to be treated in law as the mother or, as the case may be, father of the child for all purposes.

(2) Where by virtue of section 27 or 28 of this Act a person is not be treated as the mother or father of a child, that person is to be treated in law as not being the mother or, as the case may be, father of the child for any purpose.

(3) Where subsection (1) or (2) above has effect references to any relationship between two people in any enactment, deed or other instrument or document (whenever passed or made) are to be read accordingly.

(4) In relation to England and Wales and Northern Ireland, nothing in the provisions of section 27(1) or 28(2) to (4), read with this section, affects—

(a) the succession to any dignity or title of honour or renders any person capable of succeeding to or transmitting a right to succeed to any such dignity or title, or

(b) the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any dignity or title of honour.

(5) In relation to Scotland—

(a) those provisions do not apply to any title, coat of arms, honour or dignity transmissible on the death of the holder thereof or affect the succession thereto or the devolution thereof, and

(b) where the terms of any deed provide that any property or interest in property shall devolve along with a title, coat of arms, honour or dignity, nothing in those provisions shall prevent that property or interest from so devolving.

Parental orders in favour of gamete donors.

30.—(1) The court may make an order providing for a child to be treated in law as the child of the parties to a marriage (referred to in this section as “the husband” and “the wife”) if—

(a) the child has been carried by a woman other than the wife as the result of the placing in her of an embryo or sperm and eggs or her artificial insemination,

(b) the gametes of the husband or the wife, or both, were used to bring about the creation of the embryo, and

(c) the conditions in subsections (2) to (7) below are satisfied.

(2) The husband and the wife must apply for the order within six months of the birth of the child or, in the case of a child born before the coming into force of this Act, within six months of such coming into force.

(3) At the time of the application and of the making of the order—

(a) the child's home must be with the husband and the wife, and

(b) the husband or the wife, or both of them, must be domiciled in a part of the United Kingdom or in the Channel Islands or the Isle of Man.

(4) At the time of the making of the order both the husband and the wife must have attained the age of eighteen.

(5) The court must be satisfied that both the father of the child (including a person who is the father by virtue of section 28 of this Act), where he is not the husband, and the woman who carried the child have freely, and with full understanding of what is involved, agreed unconditionally to the making of the order.

These matters were discussed fully in the first report of the Law Commission on "Family Law: Illegitimacy" (Law Com No 118), paras 8.15-8.25, and modified in the second report (cited above). The Family Law Reform Act 1969, s 15, which made reforms regarding the rights of illegitimate children and their relatives with regard to dispositions of property in more limited fashion is repealed by s 33(4), Sch 4 post (subject to s 33(2) and Sch 3, para 9 post).

Sub-s (2). This subsection is inserted as a result of the discussion contained in the second Law Commission report on "Family Law: Illegitimacy" (Law Com No 157; Cmnd 9913), para 3.7, so as to avoid confusion regarding the construction of the word "heir". It was noted that the word "heir" may be used in such a way that no reference to any relationship is intended but "where the term clearly does denote or imply a relationship we now think that it should be construed in accordance with the general principle [ie s 1 of this Act ante]".

Sub-s (4): Dignity or title of honour. Children of void or voidable marriages who are deemed to be legitimate by virtue of the Legitimacy Act 1976, s 1, ante, are not debarred from succeeding to a title or dignity (with the exception of children of a void marriage born before the commencement of the Legitimacy Act 1959); children legitimated by subsequent marriage under s 2 of the 1976 Act ante (as under the Legitimacy Act 1926, s 1 (repealed)) may not generally succeed to a title or dignity; see the Legitimacy Act 1976, s 11, Sch 1, para 4 ante.

Sub-s (7). This subsection makes it clear that where a will or codicil is made before the commencement of this section the fact that a codicil confirming the will is made after that date will not prevent the will from being treated as having been made before the commencement date. Similar provision was made by the Family Law Reform Act 1969, s 15(8) (repealed by s 33(4), Sch 4 post), and is necessary since otherwise dispositions in the will might be governed by the law in force at the date of a later codicil: cf *Re Rayer* [1903] 1 Ch 685, [1900-3] All ER Rep 104.

Trustee Act 1925, s 33. See Vol 48, title Trusts and Settlements (Pr 1). See also as regards transitional provision regarding the operation of that provision, s 33(2), Sch 3, para 9 post.

Adoption Act 1976, s 42. See this title ante.

20 – 26 (*S 20 repeals the Family Law Reform Act 1969, s 17; for s 21, see Vol 17, title Executors and Administrators; s 22 substitutes the Family Law Act 1986, s 56 ante; for s 23, see Vol 17, title Evidence; ss 24, 25 substitute the Births and Deaths Registration Act 1953, ss 10, 10A, respectively, Vol 37, title Registration Concerning the Individual; s 26 inserts s 14A of the 1953 Act, in the same title.*)

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

27 Artificial insemination

(1) Where after the coming into force of this section a child is born in England and Wales as the result of the artificial insemination of a woman who—

- (a) was at the time of the insemination a party to a marriage (being a marriage which had not at that time been dissolved or annulled); and
- (b) was artificially inseminated with the semen of some person other than the other party to that marriage,

then, unless it is proved to the satisfaction of any court by which the matter has to be determined that the other party to that marriage did not consent to the insemination, the child shall be treated in law as the child of the parties to that marriage and shall not be treated as the child of any person other than the parties to that marriage.

(2) Any reference in this section to a marriage includes a reference to a void marriage if at the time of the insemination resulting in the birth of the child both or either of the parties reasonably believed that the marriage was valid; and for the purposes of this section it shall be presumed, unless the contrary is shown, that one of the parties so believed at that time that the marriage was valid.

FAMILY LAW REFORM ACT 1987 s 31

(3) Nothing in this section shall affect the succession to any dignity or title of honour or render any person capable of succeeding to or transmitting a right to succeed to any such dignity or title.

NOTES

Commencement. 4 April 1988; see the note to s 1 ante.

General Note. This section provided for the status and paternity of children conceived as a result of artificial insemination of the mother with sperm provided by a third party donor ("A.I.D"). As the law stood at the time of the passing of this Act such children were illegitimate, it being immaterial that the mother's husband has consented to insemination (the status of the child being the same as that of a child conceived in adultery). The first report of the Law Commission on "Family Law: Illegitimacy" (Law Com No 118) recommended in paras 12.9 et seq, 14.67 - 14.82 that a child born to a married woman after artificial insemination from a donor should be treated in law as the legitimate child of his mother and her husband and as a child of their marriage and not as the child of any other person (including, in particular, the donor). The child's mother's marriage must have been subsisting at the time of insemination and the husband must have consented to the insemination as a condition for the child to be treated as a child of the marriage. These recommendations were implemented by the provisions of this section. By virtue, however, of the Human Fertilisation and Embryology Act 1990, s 49(4), Vol 28, title Medicine and Pharmacy, this section does not have effect in relation to children carried by women as a result of their artificial insemination after 1 August 1991 (the date of commencement for ss 27-29 of that Act, in the same title, which sections deal with the status of a child born as a result of treatment licensed under the 1990 Act).

Sub-s (1): England; Wales. For meanings, see the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes.

28, 29 (*S 28 amends the Legitimacy Act 1976, s 1(1), and adds s 1(3), (4) of that Act ante; s 29(1)-(3) amend the Civil Evidence Act 1968, s 12(1), (2), Vol 17, title Evidence; s 29(4) repealed by the Courts and Legal Services Act 1990, s 125(7), Sch 20.*)

Supplemental

30 Orders applying section 1 to other enactments

(1) The Lord Chancellor may by order make provision for the construction in accordance with section 1 above of such enactments passed before the coming into force of that section 2S may be specified in the order.

(2) An order under this section shall so amend the enactments to which it relates as to secure that (so far as practicable) they continue to have the same effect notwithstanding the making of the order.

(3) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

NOTES

Commencement. 1 April 1989; see the note to s 2 ante.

Lord Chancellor. *ie* the Lord High Chancellor of Great Britain; see the Interpretation Act 1978, s 5, Sch 1, Vol 41, title Statutes.

Statutory instrument; subject to annulment. For provisions as to statutory instruments generally, see the Statutory Instruments Act 1946, Vol 41, title Statutes, and as to statutory instruments which are subject to annulment in pursuance of a resolution of either House of Parliament, see ss 5(1), 7(1) of that Act.

Orders under this section. Up to 1 March 1992 no order had been made under this section.

31 Interpretation

In this Act—

"the 1953 Act" means the Births and Deaths Registration Act 1953;

"the 1971 Act" means the Guardianship of Minors Act 1971;

Queensland



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:—

"1 A. 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) Section 7 (Recognition of paternity)	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> "

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.