

[AS REPORTED FROM THE JUSTICE AND LAW REFORM  
COMMITTEE]

*House of Representatives, 2 April 1987*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

*Right Hon. Geoffrey Palmer*

## STATUS OF CHILDREN AMENDMENT

### ANALYSIS

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### A BILL INTITULED

**An Act to amend the Status of Children Act 1969 in relation to the status of persons conceived (by) as a result of certain medical procedures**

No. 58—2

Price \$1.50  
incl. GST \$1.65

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title**—This Act may be cited as the Status of Children Amendment Act (1986) 1987, and shall be read together with and deemed part of the Status of Children Act 1969\* (hereinafter referred to as the principal Act). 5

**2. Interpretation**—For the purposes of this Act,—

- (a) A reference to a married woman includes a reference to a woman who is living with a man as his wife in a relationship in the nature of a marriage, although not legally married to him; and 10
- (b) A reference, however expressed, to the husband or wife of a person—
  - (i) Is, in the case where the person is living with another person of the opposite sex as his or her spouse in a relationship in the nature of a marriage although not legally married to the other person, a reference to that other person; and 15
  - (ii) Does not, in that case, include a reference to the spouse (if any) to whom the person is legally married.

**3. Application of Act**—(1) This Act applies— 20

- (a) In respect of a pregnancy referred to in section 5 or section 7 or section 9 or section 11 or section 13 or section 15 of this Act, whether the pregnancy occurred before or after the commencement of this Act; and whether or not it resulted from a procedure carried out in New Zealand; and 25
  - (b) In respect of any child born of a pregnancy referred to in section 5 or section 7 or section 9 or section 11 or section 13 or section 15 of this Act, whether the child was born before or after the commencement of this Act, and whether or not the child was born in New Zealand. 30
- (2) Nothing in this Act affects the vesting in possession or in interest of any property that occurred before the commencement of this Act.

*Status of Children Conceived by Artificial Insemination by Donor* 35

**4. Artificial insemination by donor**—A reference in section 5 or section 17 of this Act to artificial insemination is a reference to the artificial insemination of a woman where the semen used for the artificial insemination—

- (a) Is produced by a man other than her husband; or
- (b) Is a mixture of semen part of which is produced by a man other than her husband and part of which is produced by her husband.

- 5     **5. Status of child**—(1) Where a married woman becomes pregnant as a result of artificial insemination and she has undergone the procedure with the consent of her husband—
- 10     (a) The husband shall, for all purposes, be the father of any child of the pregnancy, whether born or unborn; and
  - 10     (b) Any man, not being her husband, who produced semen used for the procedure shall, for all purposes, not be the father of any child of the pregnancy, whether born or unborn.
- 15     (2) Where a woman becomes pregnant as a result of artificial insemination and that woman is either a woman who is not a married woman or a married woman who has undergone the procedure without the consent of her husband—

*Struck Out*

- 20     (a) Any child of the pregnancy, whether born or unborn, has no rights and incurs no liabilities in respect of the man who produced the semen used in the procedure unless at any time that man becomes the husband of the woman; and
- 25     (b) The man who produced the semen used in the procedure has no rights and incurs no liabilities in respect of any child of the pregnancy, whether born or unborn, unless at any time that man becomes the husband of the woman.

*New*

- 30     (a) Any child of the pregnancy, whether born or unborn, shall not have, in relation to the man who produced the semen used in the procedure, the rights and liabilities of a child of that man unless at any time that man becomes the husband of the woman; and
- 35     (b) The man who produced the semen used in the procedure shall not have the rights and liabilities of a father of any child of the pregnancy, whether born or unborn, unless at any time that man becomes the husband of the woman.

*Status of Children Conceived by use of Donor Semen in an  
Implantation Procedure*

**6. Donor semen implantation procedure**—A reference in section 7 or section 17 of this Act to a donor semen implantation 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 fertilised outside her body by the use of semen produced by a man other than her husband. 5

**7. Status of child**—(1) Where a married woman becomes pregnant as a result of a donor semen implantation procedure and she has undergone the procedure with the consent of her husband— 10

- (a) The husband shall, for all purposes, be the father of any child of the pregnancy, whether born or unborn; and
- (b) The man who produced the semen used for the fertilisation of the ovum used in the procedure shall, for all purposes, not be the father of any child of the pregnancy, whether born or unborn. 15

(2) Where a woman becomes pregnant as a result of a donor semen implantation procedure and that woman is either a woman who is not a married woman or a married woman who has undergone the procedure without the consent of her husband— 20

*Struck Out*

- (a) Any child of the pregnancy, whether born or unborn, has no rights and incurs no liabilities in respect of the man who produced the semen used in the procedure unless at any time that man becomes the husband of the woman; and 25
- (b) The man who produced the semen used in the procedure has no rights and incurs no liabilities in respect of any child of the pregnancy, whether born or unborn, unless at any time that man becomes the husband of the woman. 30

*New*

- (a) Any child of the pregnancy, whether born or unborn, shall not have, in relation to the man who produced the semen used in the procedure, the rights and liabilities of a child of that man unless at any time that man becomes the husband of the woman; and 35 40

*New*

5 (b) The man who produced the semen used in the procedure shall not have the rights and liabilities of a father of any child of the pregnancy, unless at any time that man becomes the husband of the woman.

*Status of Children Conceived by use of Donor Ovum or Donor Embryo in an Implantation Procedure*

10 **8. Donor ovum or donor embryo implantation procedure**—A reference in **section 9** or **section 17** of this Act to a donor ovum or donor embryo implantation 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, being an ovum that has been fertilised by the use of—

- 15 (a) Semen produced by the husband of the woman in whose womb the embryo is implanted; or  
 (b) Semen produced by a man other than the husband of the woman in whose womb the embryo is implanted.

20 **9. Status of child**—(1) Where a married woman becomes pregnant as a result of a donor ovum or donor embryo implantation procedure in which the semen used for the fertilisation of the ovum is produced by a man other than the husband of the married woman and she has undergone the procedure with the consent of her husband—

- 25 (a) The husband shall, for all purposes, be the father of any child of the pregnancy, whether born or unborn; and  
 (b) The man who produced the semen shall, for all purposes, not be the father of any child of the pregnancy, whether born or unborn.

30 (2) Where a woman becomes pregnant as a result of a donor ovum or donor embryo implantation procedure and that woman is either a woman who is not a married woman or a married woman who has undergone the procedure without the consent of her husband—

35 *Struck Out*

40 (a) Any child of the pregnancy, whether born or unborn, has no rights and incurs no liabilities in respect of the man who produced the semen used in the procedure unless that man is, or at any time becomes, the husband of the woman; and

*Struck Out*

- (b) The man who produced the semen used in the procedure has no rights and incurs no liabilities in respect of any child of the pregnancy, whether born or unborn, unless that man is, or at any time becomes, the husband of the woman. 5

*New*

- (a) Any child of the pregnancy, whether born or unborn, shall not have, in relation to the man who produced the semen used in the procedure, the rights and liabilities of a child of that man unless that man is, or at any time becomes, the husband of the woman; and 10
- (b) The man who produced the semen used in the procedure shall not have the rights and liabilities of a father of any child of the pregnancy, unless that man is, or at any time becomes, the husband of the woman. 15

(3) Where a woman becomes pregnant as a result of a donor ovum or donor embryo implantation procedure—

- (a) The woman shall, for all purposes, be the mother of any child of the pregnancy, whether born or unborn; and 20
- (b) The woman who produced the ovum from which the embryo used in the procedure was derived shall, for all purposes, not be the mother of any child of the pregnancy, whether born or unborn. 25

*Status of Children Conceived by use of Donor Semen in an Intra-Fallopian Transfer Procedure*

**10. Donor semen intra-fallopian transfer procedure—**A reference in **section 11** or **section 17** of this Act to a donor semen intra-fallopian transfer procedure is a reference to the procedure of transferring into the fallopian tubes of a woman an ovum produced by her together with semen produced by a man other than her husband. 30

**11. Status of child—**(1) Where a married woman becomes pregnant as a result of a donor semen intra-fallopian transfer procedure and she has undergone the procedure with the consent of her husband— 35

- (a) The husband shall, for all purposes, be the father of any child of the pregnancy, whether born or unborn; and

(b) The man who (*produces*) produced the semen transferred into the fallopian tubes in the procedure shall, for all purposes, not be the father of any child of the pregnancy, whether born or unborn.

5 (2) Where a woman becomes pregnant as a result of a donor semen intra-fallopian transfer procedure and that woman is either a woman who is not a married woman or a married woman who has undergone the procedure without the consent of her husband—

10 *Struck Out*

(a) Any child of the pregnancy, whether born or unborn, has no rights and incurs no liabilities in respect of the man who produced the semen transferred into the fallopian tubes in the procedure unless at any time that man becomes the husband of the woman; and  
15 (b) The man who produced the semen transferred into the fallopian tubes in the procedure has no rights and incurs no liabilities in respect of any child of the pregnancy, whether born or unborn, unless at any time that man becomes the husband of the woman.  
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*New*

(a) Any child of the pregnancy, whether born or unborn, shall not have, in relation to the man who produced the semen transferred into the fallopian tubes in the procedure, the rights and liabilities of a child of that man unless at any time that man becomes the husband of the woman; and  
25 (b) The man who produced the semen transferred into the fallopian tubes in the procedure shall not have the rights and liabilities of a father of any child of the pregnancy, whether born or unborn, unless at any time that man becomes the husband of the woman.  
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*Status of Children Conceived by use of Donor Ovum  
in an Intra-Fallopian Transfer Procedure*

35 **12. Donor ovum intra-fallopian transfer procedure—** A reference in **section 13** or **section 17** of this Act to a donor ovum intra-fallopian transfer procedure is a reference to the procedure of transferring into the fallopian tubes of a woman an ovum produced by another woman together with—

40 (a) Semen produced by the husband of the woman into whose fallopian tubes an ovum is transferred; or

- (b) Semen produced by a man other than the husband of the woman into whose fallopian tubes an ovum is transferred.

**13. Status of child**—(1) Where a married woman becomes pregnant as a result of a donor ovum intra-fallopian transfer procedure in which the semen transferred into the fallopian tubes is produced by a man other than the husband of the married woman and she has undergone the procedure with the consent of her husband—

- (a) The husband shall, for all purposes, be the father of any child of the pregnancy, whether born or unborn; and  
 (b) The man who (~~produces~~) produced the semen shall, for all purposes, not be the father of any child of the pregnancy, whether born or unborn.

(2) Where a woman becomes pregnant as a result of a donor ovum intra-fallopian transfer procedure and that woman is either a woman who is not a married woman or a married woman who has undergone the procedure without the consent of her husband—

*Struck Out*

- (a) Any child of the pregnancy, whether born or unborn, has no rights and incurs no liabilities in respect of the man who produced the semen used in the procedure unless that man is, or at any time becomes, the husband of the woman; and  
 (b) The man who produced the semen used in the procedure has no rights and incurs no liabilities in respect of any child of the pregnancy, whether born or unborn, unless that man is, or at any time becomes, the husband of the woman.

*New*

- (a) Any child of the pregnancy, whether born or unborn, shall not have, in relation to the man who produced the semen used in the procedure, the rights and liabilities of a child of that man unless at any time that man is, or at any time becomes, the husband of the woman; and  
 (b) The man who produced the semen used in the procedure shall not have the rights and liabilities of a father of any child of the pregnancy, unless that man is, or at any time becomes, the husband of the woman.



(3) Where a woman becomes pregnant as a result of a donor ovum intra-fallopian transfer procedure—

- (a) The woman shall, for all purposes, be the mother of any child of the pregnancy, whether born or unborn; and
- 5 (b) The woman who produced the ovum which was transferred into the fallopian tubes in the procedure shall, for all purposes, not be the mother of any child of the pregnancy, whether born or unborn.

*Status of Children Conceived by use of Embryos in an  
Intra-Fallopian Transfer Procedure*

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**14. Embryo intra-fallopian transfer procedure**—(1) A reference in **section 15 or section 17** of this Act to a donor embryo intra-fallopian transfer procedure is a reference to the procedure of transferring into the fallopian tubes of a woman  
15 an embryo derived from an ovum produced by another woman, being an ovum that has been fertilised by the use of semen produced by a man other than the husband of the woman into whose fallopian tubes the embryo is transferred.

(2) A reference in **section 15 or section 17** of this Act to an  
20 embryo (donor semen) intra-fallopian transfer procedure is a reference to the procedure of transferring into the fallopian tubes of a woman an embryo derived from an ovum produced by the woman, being an ovum that has been fertilised by the use of semen produced by a man other than the husband of  
25 the woman into whose fallopian tubes the embryo is transferred.

(3) A reference in **section 15 or section 17** of this Act to an  
30 embryo (donor ovum) intra-fallopian transfer procedure is a reference to the procedure of transferring into the fallopian tubes of a woman an embryo derived from an ovum produced by a woman other than the woman into whose fallopian tubes the embryo is transferred, being an ovum that has been fertilised by the use of semen produced by the husband of the woman into whose fallopian tubes the embryo is transferred.

**15. Status of child**—(1) Where a married woman becomes  
35 pregnant as a result of a donor embryo intra-fallopian transfer procedure or an embryo (donor semen) intra-fallopian transfer procedure and she has undergone the procedure with the consent of her husband—

- 40 (a) The husband shall, for all purposes, be the father of any child of the pregnancy, whether born or unborn; and

- (b) The man who produced the semen shall, for all purposes, not be the father of any child of the pregnancy, whether born or unborn.

(2) Where a woman becomes pregnant as a result of a donor embryo intra-fallopian transfer procedure or an embryo (donor semen) intra-fallopian transfer procedure and that woman is either a woman who is not a married woman or a married woman who has undergone the procedure without the consent of her husband—

*Struck Out*

- (a) Any child of the pregnancy, whether born or unborn, has no rights and incurs no liabilities in respect of the man who produced the semen used in the procedure unless at any time that man becomes the husband of the woman; and
- (b) The man who produced the semen used in the procedure has no rights and incurs no liabilities in respect of any child of the pregnancy, whether born or unborn, unless at any time that man becomes the husband of the woman.

*New*

- (a) Any child of the pregnancy, whether born or unborn, shall not have, in relation to the man who produced the semen used in the procedure, the rights and liabilities of a child of that man unless at any time that man becomes the husband of the woman; and
- (b) The man who produced the semen used in the procedure shall not have the rights and liabilities of a father of any child of the pregnancy, unless at any time that man becomes the husband of the woman.

(3) Where a woman becomes pregnant as a result of a donor embryo intra-fallopian transfer procedure or an embryo (donor ovum) intra-fallopian transfer procedure—

- (a) The woman shall, for all purposes, be the mother of any child of the pregnancy, whether born or unborn; and

- (b) The woman who produced the ovum from which the embryo used in the procedure was derived shall, for all purposes, not be the mother of any child of the pregnancy, whether born or unborn.

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*General Provisions*

*Struck Out*

10 **16. Conflicting evidence of paternity—Sections 5, 7, 9, 11, 13, and 15** of this Act shall have effect notwithstanding any conflicting evidence of paternity under section 8 of the principal Act and any conflicting declaration of paternity made under section 10 of the principal Act.

*New*

15 **16. Conflicting evidence of paternity—Sections 5, 7, 9, 11, 13, and 15** of this Act shall have effect notwithstanding—  
(a) Any conflicting evidence under section 8 of the principal Act that the man who produced the semen was the father of the child of the pregnancy; and  
(b) Any conflicting declaration of paternity made under section 10 of the principal Act that the man who produced the semen was the father of the child of the pregnancy; and  
20 (c) Any other evidence that the man who produced the semen was the father of the child of the pregnancy.

25 **17. Presumption concerning husband's consent—(1)** In any proceedings in which the operation of **section 5 or section 7 or section 9 or section 11 or section 13 or section 15** of this Act is relevant, a husband's consent to the carrying out of—  
(a) Artificial insemination by donor; or  
(b) A donor semen implantation procedure; or  
30 (c) A donor ovum or donor embryo implantation procedure in which the semen used for the fertilisation of the ovum is produced by a man other than the husband; or  
(d) A donor semen intra-fallopian transfer procedure; or  
35 (e) A donor ovum intra-fallopian transfer procedure in which the semen transferred into the fallopian tubes is produced by a man other than the husband; or  
(f) An embryo intra-fallopian transfer procedure in which the semen used for the fertilisation of the ovum is produced by a man other than the husband,—  
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in respect of his wife shall be presumed in the absence of evidence to the contrary.

*New*

(2) Every question of fact that arises in applying subsection (1) of this section shall be decided on a balance of probabilities.	5
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**18. Rights and liabilities of child and donor where donor marries mother of child**—Where, in any case to which section 5 (2) or section 7 (2) or section 9 (2) or section 11 (2) or section 13 (2) or section 15 (2) of this Act applies, the man who produced the semen used in the procedure that resulted in the pregnancy becomes the husband of the (*women*) woman who became pregnant,— 10

(a) Any child of the pregnancy shall have, in relation to that man, the rights and liabilities of a child of that man, but, in the absence of agreement to the contrary, those liabilities shall not include liabilities incurred before the man becomes the husband of the woman; and 15

(b) That man shall have, in relation to any child of the pregnancy, the rights and liabilities of a father of a child but, in the absence of agreement to the contrary, those liabilities shall not include liabilities incurred before the man becomes the husband of the woman. 20