
LEGISLATIVE COUNCIL

Surrogacy Bill 2010

First print

Proposed amendments

No. 1 Page 13. Insert after line 3:

27 Birth mother must have previously given birth to a child

- (1) The birth mother must have given birth to at least one other live child, before entering into the surrogacy arrangement.
- (2) This precondition is a mandatory precondition to the making of a parentage order.

No. 2 Page 13. Insert after line 3:

27 Birth mother must not be biological parent

- (1) The birth mother must not be a biological parent of the child.
- (2) A birth mother is a biological parent of the child if an ovum of the birth mother was used under the surrogacy arrangement to conceive the child.
- (3) This precondition is a mandatory precondition to the making of a parentage order.
- (4) For the purposes of establishing that a birth mother is not a biological parent of a child in proceedings for a parentage order, a presumption as to parentage provided for by Part 3 of the *Status of Children Act 1996* is rebuttable by proof on the balance of probabilities, despite anything to the contrary in that Act.
- (5) Section 12 of the *Status of Children Act 1996* does not apply to a finding of the Court that a person other than the birth mother is a biological parent of a child if the finding is made in connection with proceedings under this Part.

No. 3 Page 13. Insert after line 8:

28 Biological connection between child and intended parents

- (1) At least one of the intended parents must be a biological parent of the child.

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- (2) An intended parent is the biological parent of the child if the sperm or an ovum of the intended parent was used under the surrogacy arrangement to conceive the child.
 - (3) This condition is a mandatory precondition to the making of a parentage order.
 - (4) For the purposes of establishing that an intended parent is a biological parent of a child in proceedings for a parentage order, a presumption as to parentage provided for by Part 3 of the *Status of Children Act 1996* is rebuttable by proof on the balance of probabilities, despite anything to the contrary in that Act.
 - (5) Section 12 of the *Status of Children Act 1996* does not apply to a finding of the Court that an intended parent is a biological parent of a child if the finding is made in connection with proceedings under this Part.

No. 4 Page 36, Schedule 2.1. Insert after line 8:

[19] Section 61A

Insert before section 62:

61A Conscientious objection to ART services

- (1) An employee of an ART provider has no duty arising under contract or otherwise to provide or take part in the provision of any ART service if the employee has a conscientious objection in respect of the ART service.
- (2) A *conscientious objection* in respect of an ART service is a conscientious objection on the grounds of a personal or religious belief:
 - (a) to the ART service, or
 - (b) to the provision of the ART service to the person to whom the ART service is being provided or proposed to be provided.
- (3) An ART provider must ensure that an employee of the ART provider is not disadvantaged because of a conscientious objection in respect of an ART service.
- (4) This section applies despite any provision made by or under any other Act or law and despite the terms of any agreement (whether entered into before or after the commencement of this section).
- (5) A term of an agreement is void to the extent that it would operate to exclude, modify or restrict the operation of this section.
- (6) In this section, an *employee* of an ART provider includes any person who provides or is engaged to provide ART services on behalf of an ART provider either under contract or in the course of the person's employment by the ART provider.