

# CONCURRENCE COPY

## ARTIFICIAL CONCEPTION BILL, 1984

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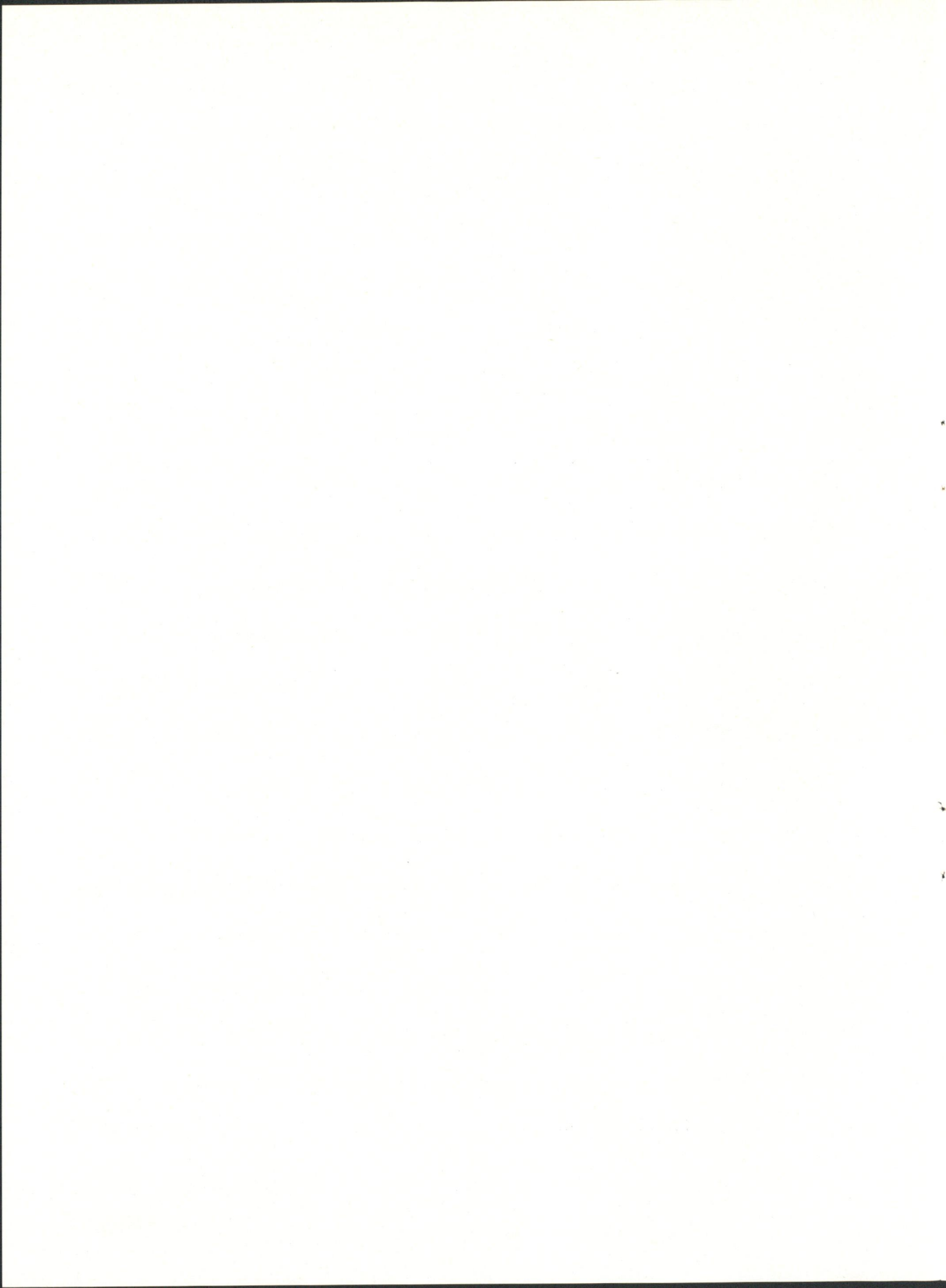
### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Children (Equality of Status) Amendment Bill, 1984, is cognate with this Bill.

The objects of this Bill are—

- (a) to provide that, where a married woman becomes pregnant as a result of a fertilisation procedure (artificial insemination or “in vitro” fertilisation of her own ovum) which she has undergone with the consent of her husband, the husband shall be presumed to have caused the pregnancy and to be the father of any resulting child (clause 5 (1));
  - (b) to provide that the donor of semen used for artificial insemination or “in vitro” fertilisation shall be presumed not to have caused any resulting pregnancy (except where the donor is the husband of the mother) (clause 6 (1));
  - (c) to provide that the proposed Act extends so as to apply in relation to de facto marriages (clause 3); and
  - (d) to make other provisions of an ancillary or minor nature.
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# ARTIFICIAL CONCEPTION BILL, 1984

No.           , 1984.

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## A BILL FOR

An Act with respect to the status and paternity of persons conceived by artificial means; and for other purposes.

[MR WALKER—24 *November*, 1983.]

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See also Children (Equality of Status) Amendment Bill, 1984.



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*Artificial Conception.*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 **Short title.**

1. This Act may be cited as the "Artificial Conception Act, 1984".

**Commencement.**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) This Act, except sections 1 and 2, shall commence on such day  
10 as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, and a reference in this Act to the commencement of this Act is a reference to the commencement of the provisions of this Act, except those sections.

**Interpretation.**

15 3. (1) A reference in this Act to a married woman includes a reference to a woman who is living with a man as his wife on a bona fide domestic basis although not married to him.

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

20 (a) is, in a 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 the other person, a reference to that other person; and

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

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*Artificial Conception.*

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**Application of Act.**

4. (1) The provisions of this Act apply—

- 5 (a) in respect of a pregnancy referred to in section 5 or 6, 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 South Wales; and
- 10 (b) in respect of any child born as a result of a pregnancy referred to in section 5 or 6, whether or not the child was born before or after the commencement of this Act and whether or not the child was born in New South Wales.

(2) Nothing in this Act affects the vesting in possession or in interest of any property that occurred before the commencement of this Act.

(3) The provisions of this Act have effect subject to the provisions of section 18A (2) of the Children (Equality of Status) Act, 1976.

15 **Fertilisation procedure: presumption as to status of child of married woman.**

5. (1) A reference in this section to a fertilisation procedure is a reference to—

- 20 (a) the artificial insemination of a woman; or
- (b) the procedure of implanting in the womb of a woman an ovum produced by the woman and fertilised outside her body,
- where the semen used for the artificial insemination or the procedure—
- (c) was produced by a man other than her husband; or
- 25 (d) 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 fertilisation procedure as a result of which she has become pregnant, 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

30 the pregnancy.



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*Artificial Conception.*

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(3) The 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 fertilisation procedure in respect of his wife shall be presumed, but that presumption is rebuttable.

**Artificial conceptions: presumption as to semen donors.**

6. (1) Where a woman becomes pregnant by means of—

(a) artificial insemination; or

10 (b) the procedure of implanting in her womb an ovum (whether or not produced by her) fertilised outside her body,

any man (not being, in the case of a married woman, her husband) who produced semen used for the artificial insemination or 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.

15 (2) The presumption of law that arises by virtue of subsection (1) is irrebuttable.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984







ARTIFICIAL CONCEPTION ACT, 1984, No. 3

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

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Act No. 3, 1984.

An Act with respect to the status and paternity of persons conceived by artificial means; and for other purposes. [Assented to, 5th March, 1984.]

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See also Children (Equality of Status) Amendment Act, 1984.

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*Artificial Conception.*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Artificial Conception Act, 1984".

**Commencement.**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) This Act, except sections 1 and 2, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette, and a reference in this Act to the commencement of this Act is a reference to the commencement of the provisions of this Act, except those sections.

**Interpretation.**

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

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

- (a) is, in a 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 the other person, a reference to that other person; and
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**Fertilisation procedure: presumption as to status of child of married woman.**

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where the semen used for the artificial insemination or the procedure—

- (c) was produced by a man other than her husband; or
- (d) 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 fertilisation procedure as a result of which she has become pregnant, 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.



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*Artificial Conception.*

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(3) The 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 fertilisation procedure in respect of his wife shall be presumed, but that presumption is rebuttable.

**Artificial conceptions: presumption as to semen donors.**

6. (1) Where a woman becomes pregnant by means of—

(a) artificial insemination; or

(b) the procedure of implanting in her womb an ovum (whether or not produced by her) fertilised outside her body,

any man (not being, in the case of a married woman, her husband) who produced semen used for the artificial insemination or 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.

(2) The presumption of law that arises by virtue of subsection (1) is irrebuttable.

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
*Governor.*

*Government House,*  
*Sydney, 5th March, 1984.*