

South Australia

# **Family Relationships (Parentage Presumptions) Amendment Act 2016**

An Act to amend the *Family Relationships Act 1975*; and to make a related amendment to the *Births, Deaths and Marriages Registration Act 1996*.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Family Relationships (Parentage Presumptions) Amendment Act 2016*.

### **2—Commencement**

This Act will come into operation 3 months after the day on which it is assented to by the Governor.

### **3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *Family Relationships Act 1975*

### 4—Amendment of section 10C—Rules relating to parentage

Section 10C—after subsection (3) insert:

(3a) If—

- (a) a woman is living with another person (her *partner*) in a marriage-like relationship (whether they are of the same or opposite sex); and
- (b) the woman undergoes, with the consent of her partner, a fertilisation procedure in consequence of which she becomes pregnant; and
- (c) the woman and her partner elect, in accordance with the requirements prescribed by the regulations, to have the parentage of any child born (whether before or after that election) as a result of the pregnancy determined in accordance with this subsection,

then, for the purposes of the law of the State, the woman's partner—

- (d) will be conclusively presumed to have caused the pregnancy; and
- (e) will be taken to be—
  - (i) in the case of a male partner—the father; or
  - (ii) in any other case—a co-parent,of any child born as a result of the pregnancy.

## Schedule 1—Related amendment to *Births, Deaths and Marriages Registration Act 1996*

### 1—Amendment of section 14—How to have the birth of a child registered

Section 14—after its present contents (now to be designated as subsection (1)) insert:

- (2) The birth registration statement must include particulars of the identity (if known) of the biological parents of the child.
- (3) The fact that a person is described as a biological parent of a child in a birth registration statement in accordance with subsection (2), or in an entry about the birth in the Register—
  - (a) does not constitute an acknowledgement of parentage for the purposes of the *Family Relationships Act 1975* or any other law; and
  - (b) does not otherwise operate to make that person the mother or father of the child for the purposes of any other law.

- (4) In this section—  
*biological parents*, in relation to the birth of a child, means—
- (a) the person who provided semen resulting in the birth; and
  - (b) the person who provided the ovum resulting in the birth.
- (5) Subsections (2), (3) and (4) expire on the day on which the donor conception register is established under section 15 of the *Assisted Reproductive Treatment Act 1988*.

## 2—Amendment of section 46—Issue of certificate

Section 46—after subsection (1) insert:

- (1a) A certificate under subsection (1)(a) may only include particulars identifying a person as a biological parent of another person with the written consent of that other person or, if that other person is not an adult, of each legal parent or guardian of that person (however, a failure to comply with this subsection does not affect the admissibility or validity of a certificate).
- (1b) Subsection (1a) expires on the day on which the donor conception register is established under section 15 of the *Assisted Reproductive Treatment Act 1988*.

## Schedule 2—Transitional provision

### 1—Immunity

Despite a provision of the *Births, Deaths and Marriages Registration Act 1996*, no liability attaches to a person for a failure to provide to the Registrar particulars of the person who is the father or co-parent of a child in the case where—

- (a) the child was born before the commencement of this clause; and
- (b) the person is only taken to be father or co-parent of the child by virtue of Part 2A of the *Family Relationships Act 1975* (as amended by this Act).