



ANNO TRICESIMO SEPTIMO

**ELIZABETHAE II REGINAE**

**A.D. 1988**

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**No. 2 of 1988**

**An Act to amend the Family Relationships Act, 1975.**

*[Assented to 3 March 1988]*

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Family Relationships Act Amendment Act, 1988".

(2) The Family Relationships Act, 1975, is in this Act referred to as "the principal Act".

Commencement.

2. This Act will come into operation on a day to be fixed by proclamation.

Repeal of s. 3

3. Section 3 of the principal Act is repealed.

Amendment of  
s. 10a—  
Interpretation.

4. Section 10a of the principal Act is amended by striking out in subsection (1) the definition of "fertilization procedure" and substituting the following definition:

"fertilization procedure" means—

(a) artificial insemination;

(b) the procedure of fertilizing a human ovum outside the body and transferring the fertilized ovum into the body;

or

(c) the procedure of transferring an unfertilized human ovum into the body for the purpose of fertilization within the body:.

Amendment of  
s. 10b—  
Application of  
Part.

(2). 5. Section 10b of the principal Act is amended by striking out subsection

Insertion of new  
Part.

6. The following Part is inserted after section 10e of the principal Act:

PART IIB  
SURROGACY

10f. In this Part—

Interpretation.

“procurator contract” means a contract under which—

(a) a person agrees to negotiate, arrange, or obtain the benefit of, a surrogacy contract on behalf of another;

or

(b) a person agrees to introduce prospective parties to a surrogacy contract:

“surrogacy contract” means a contract under which—

(a) a person agrees—

(i) to become pregnant or to seek to become pregnant;  
and

(ii) to surrender custody of, or rights in relation to, a child born as a result of the pregnancy;

or

(b) a person who is already pregnant agrees to surrender custody of, or rights in relation to, a child born as a result of the pregnancy:

“valuable consideration”, in relation to a contract, means consideration consisting of money or any other kind of property that has a monetary value.

10g. (1) A surrogacy contract is illegal and void.

(2) A procurator contract is illegal and void.

(3) A person who gives any valuable consideration under, or in respect of, a procurator contract may recover the amount or value of that consideration, as a debt, from the person to whom the consideration was given.

Illegality of  
surrogacy and  
procurator  
contracts.

10h. A person who—

Offences.

(a) receives valuable consideration under a procurator contract, or enters into such a contract in the expectation of receiving valuable consideration;

(b) induces another to enter into a surrogacy contract, having received or in the expectation of receiving valuable consideration from a third person who seeks the benefit of that contract;

or

(c) publishes an advertisement or causes an advertisement to be published to the effect—

(i) that a person is or may be willing to enter into a surrogacy contract;

(ii) that a person is seeking a person willing to enter into a surrogacy contract;

or

(iii) that a person is willing to negotiate, arrange or obtain the benefit of a surrogacy contract on behalf of another,

is guilty of an offence.

Penalty: \$4 000 or imprisonment for 12 months.

Interaction with  
other laws.

10i. This Part does not affect the operation of any law relating to the guardianship or adoption of children.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor