

Human Reproductive Technology and Surrogacy Legislation Amendment Bill 2018

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Western Australia

LEGISLATIVE ASSEMBLY

**Human Reproductive Technology and
Surrogacy Legislation Amendment Bill 2018**

A Bill for

**An Act to amend the *Human Reproductive Technology Act 1991* and
the *Surrogacy Act 2008*.**

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Human Reproductive Technology and Surrogacy
Legislation Amendment Act 2018*.

4

5

2. Commencement

6

This Act comes into operation as follows —

7

(a) Part 1 — on the day on which this Act receives the
Royal Assent;

8

9

(b) the rest of the Act — on a day fixed by proclamation.

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1 **7. Section 14 amended**

2 In section 14(1):

3 (a) in paragraph (a)(ii) delete “Act;” and insert:

4

5 Act and the *Surrogacy Act 2008*;

6

7 (b) in paragraph (b)(ii) after “Act” insert:

8

9 and the *Surrogacy Act 2008*

10

11 **8. Section 18 amended**

12 In section 18(1)(ca) delete “arrangement as defined in the
13 *Surrogacy Act 2008* section 3; and” and insert:

14

15 arrangement; and

16

17 **9. Section 21 amended**

18 Delete section 21(i)(ii) and insert:

19

20 (ii) a couple who are married to, or in a
21 de facto relationship with, each other;

22

23 **10. Section 22 amended**

24 In section 22(1)(e)(ia):

25 (a) delete “woman” (2nd occurrence) and insert:

26

27 person

28

1 (b) delete “her” and insert:

2

3 the person’s

4

5 **11. Section 23 amended**

6 (1) In section 23(1):

7 (a) delete paragraph (a) and insert:

8

9 (a) the procedure —

10 (i) would be likely to benefit a couple who
11 are likely to be unable to conceive a
12 child due to medical reasons; or

13 (ii) would be likely to benefit a woman who
14 is likely to be unable to conceive or give
15 birth to a child due to medical reasons;
16 or

17 (iii) would be likely to benefit a couple or
18 woman whose child would otherwise be
19 likely to be affected by a genetic
20 abnormality or a disease; or

21 (iv) is for the purposes of a surrogacy
22 arrangement that is lawful and for which
23 there are medical or social reasons
24 under the *Surrogacy Act 2008*
25 section 19(1A);

26 and

27

28 (b) delete paragraph (c) and insert:

29

30 (c) any persons seeking to be regarded as a couple
31 for the purposes of this section are married to,
32 or in a de facto relationship with, each other;
33 and

34

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1 (2) Delete section 23(2).

2 **12. Section 26 amended**

3 In section 26(1):

4 (a) in paragraph (c) delete “woman” and insert:

5

6 person

7

8 (b) in paragraph (d) delete “woman” and insert:

9

10 person

11

12 (c) in paragraph (d) after “the egg” insert:

13

14 or embryo

15

16 **13. Section 33 amended**

17 In section 33(2)(ea) delete “29(5)(a); and” and insert:

18

19 29(5)(aa); and

20

21 **14. Section 53R amended**

22 In section 53R(5) delete “*Act 2003* of the Commonwealth” and
23 insert:

24

25 *for Reproduction Act 2002* (Commonwealth)

26

1 **15. Section 55A inserted**

2 After section 55 insert:

3

4 **55A. Use of powers in connection with *Surrogacy***
5 ***Act 2008***

6 (1) An authorised officer may exercise a power conferred
7 by section 54 for the purposes of investigating whether
8 or not the *Surrogacy Act 2008* is being or has been
9 contravened by a licensee or in connection with the
10 provision of reproductive technology treatment.

11 (2) A justice may exercise the power conferred by
12 section 55(1) in relation to an offence under the
13 *Surrogacy Act 2008* if there is reason to suspect that
14 the offence is, or is likely to be, committed by a
15 licensee or in connection with the provision of
16 reproductive technology treatment.

17 (3) For the purposes of this section, references in
18 sections 54 and 55 to this Act include references to the
19 *Surrogacy Act 2008*.

20

21 **16. Various references to Commonwealth Act amended**

22 In the provisions listed in the Table delete "*Prohibition of*
23 *Human Cloning Act 2002* of the Commonwealth" and insert:

24

25 *Prohibition of Human Cloning for Reproduction Act 2002*
26 (Commonwealth)

27

28

Table

| | |
|-----------|---|
| s. 53A(2) | s. 53B(1) def. of <i>chimeric embryo</i> par. (b) |
|-----------|---|

**Human Reproductive Technology and Surrogacy Legislation Amendment
Bill 2018**

Part 2 Human Reproductive Technology Act 1991 amended

s. 16

| | |
|---|-----------|
| s. 53B(1) def. of <i>hybrid embryo</i> par. (e) | s. 53R(3) |
| s. 53ZG(2) | |

Part 3 — *Surrogacy Act 2008* amended

17. Act amended

This Part amends the *Surrogacy Act 2008*.

18. Section 19 amended

(1) Delete section 19(1)(b) and insert:

- (b) there were medical or social reasons for the surrogacy arrangement when the surrogacy arrangement was entered into.

(2) Delete section 19(2) and insert:

(1A) For the purposes of subsection (1)(b), there are medical or social reasons for a surrogacy arrangement if —

- (a) in the case of a surrogacy arrangement involving 1 arranged parent, the arranged parent is an eligible woman or a man; or
- (b) in the case of a surrogacy arrangement involving 2 arranged parents, the arranged parents are married to, or in a de facto relationship with, each other and are —
- (i) an eligible woman and a man; or
- (ii) 2 eligible women; or
- (iii) 2 men.

(2) In subsection (1A) —

eligible woman means a woman who —

- (a) is likely to be unable to conceive a child due to medical reasons not excluded by subsection (3);
- or

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- 1 (b) although able to conceive a child, is likely to be
2 unable to give birth to a child due to medical
3 reasons; or
4 (c) although able to conceive a child, is likely to
5 conceive a child affected by a genetic
6 abnormality or a disease.
7

8 (3) In section 19(3):

9 (a) after “being” insert:
10

11 likely to be
12

13 (b) delete “the definitions of *eligible couple* and *eligible*
14 *person*” and insert:

15

16 paragraph (a) of the definition of *eligible woman*
17

18
