

REPRODUCTIVE RIGHTS BILL 2024

Explanatory Memorandum

1. This Bill is promoted by Tanya August-Hanson MLC.
2. If the Bill is enacted, the resulting Act is not expected to have any significant financial or human resource implications.
3. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

Part 1 – Introductory

4. *Clauses 1 and 2* contain, respectively, the short title of, and the commencement provisions for, the resulting Act.
5. *Clauses 3 and 4* define the terms which apply throughout the resulting Act.
6. *Clause 5* provides that a person who has a conscientious objection need not participate in any activity governed by Part 2 of the resulting Act (human fertilisation and embryology).

Part 2 – Human fertilisation and embryology

7. This Part replaces and updates the provisions in Part 9 of the *Children and Young Persons Act 2001* relating to human fertilisation and embryology. It regulates the creation, keeping and use of embryos outside the human body and the storage and use of gametes to create embryos. It prohibits certain activities from being carried out without a licence granted for the purpose of fertility treatment. Other activities are subject to an absolute prohibition, including placing non-human embryos or gametes in a woman.
8. *Clause 6* sets out the general functions of the Department of Health and Social Care (“the Department”) in relation to the human fertilisation and embryology activities governed by Part 2.
9. *Clause 7* requires the Department to maintain a code of practice giving guidance about the proper conduct of activities carried on in pursuance of a licence under this Part.
10. *Clause 8* makes prohibitions in connection with embryos.
11. *Clause 9* clarifies the meaning of “permitted egg”, “permitted sperm” and “permitted embryo” for the purposes of *clause 8*.

12. *Clause 10* makes a prohibition in connection with germ cells.
13. *Clause 11* makes prohibitions in connection with gametes.
14. *Clause 12* makes prohibitions in connection with genetic material not of human origin.
15. *Clause 13* creates offences for the contravention of the prohibitions in *clauses 8, 10, 11 and 12*.
16. *Clause 14* makes provision for the licensing by the Department of certain of the activities otherwise prohibited under *clauses 8, 11 or 12*. At present, no licences have been issued in the Island.
17. *Clause 15* enables the Department to make regulations so that the provisions of *clauses 39 and 40* (parental orders) may have effect (subject to modifications) in relation to cases where a permitted egg or permitted embryo has been created from material provided by two women (mitochondrial donation).
18. *Clause 16* enables the Department to make regulations pertaining to the keeping and examination of gametes or embryos and the storage of gametes for certain purposes.

Part 3 – Parenthood in cases involving assisted reproduction

19. This Part replaces existing provisions in Part 9 of the *Children and Young Persons Act 2001* to determine legal parenthood for future cases involving assisted reproduction. This Part introduces a new concept of parenthood for a mother's female partner in certain circumstances, making equivalent provision to that for opposite sex couples. The *Children and Young Persons Act 2001* currently provides that where an unmarried couple are "treated together" in a licensed clinic using donated sperm, the male partner will be regarded as the father of any child born as a result. This Part makes provision that both the prospective mother and the man (or in the case of persons in a same-sex relationship, the woman) who is intended to be the second parent of the child must consent in writing to what is intended. This Part also makes provision in relation to parenthood in respect of children born after a surrogacy arrangement, which is intended to put same sex couples and unmarried couples in the same position as married couples or couples in a civil partnership.
20. *Clause 17* sets out what are the prohibited degrees of relationship between two persons. Close relatives may not jointly be treated as a child's parents.
21. *Clause 18* sets out the meaning of "mother" for the purposes of this Part of the Bill. It re-enacts section 86 of the *Children and Young Persons Act 2001*. It will remain the case that the woman who carries a child following assisted reproduction (anywhere in the world) is the child's mother, unless the child is subsequently adopted or parenthood is transferred through a parental order.

22. *Clause 19* makes provision about the application of *clauses 20 to 32*. The provisions apply to determine who will be the other parent of the child in cases involving assisted reproduction.
23. *Clause 20* applies where a child is conceived by a woman as a result of treatment with donor sperm and the woman is married or in a civil partnership with a man. The husband or civil partner will be treated as the child's father, unless it is shown that he did not consent to his wife's or civil partner's treatment.
24. *Clauses 21 and 22* make provision about the agreed fatherhood conditions. The new provisions require the couple to be treated in a licensed clinic in the Island (as when licences are issued in the Island) or a licensed clinic in the UK to ensure there is clear evidence of the parents' intentions about fatherhood. However, for the man to be the father at the time the embryo or gametes have been placed in the woman or at the time she is artificially inseminated, the couple must each have given notice of consent to him being treated as the father. Neither of them must have given notice withdrawing that consent and the woman to be treated must not have given notice of consent to another man or woman being treated as the child's parent. The notices of consent must be provided to the "person responsible" at the clinic. This is the person under whose supervision licensed activities are carried out. A notice under *clause 22* must be in writing and signed by the person giving their consent. The requirement for written notice is waived, however, if any of the parties involved is unable to sign because of illness, injury or physical disability (although the notice must still be signed at the direction of the person and witnessed).
25. *Clause 23* makes further provision about *clauses 20 and 21*. Where a person is to be treated as the father of the child by virtue of those provisions, no other person is to be treated as the father of the child. The provisions do not affect any presumption, applying by virtue of the rules of common law or of the *Legitimacy Act 1985* or the *Civil Partnership Act 2011*, that a child is the legitimate child of the parties to a marriage or civil partnership. Furthermore, the provisions do not apply to any child to the extent that the child is treated by virtue of adoption as not being the man's child.
26. *Clause 24* applies where a man's sperm, or an embryo created with his sperm, is used after his death. The man may be treated as the child's father, for the purposes of birth registration only, if various conditions are met. The man must have consented, in writing, to the use of the sperm or embryo after his death and to being treated as the child's father for the purposes of birth registration. The woman must elect that he should be treated in this way within 42 days of the child's birth. This provision applies whether the embryo or gametes were transferred to the woman in the Island or elsewhere.
27. *Clause 25* makes similar provision to *clause 24* for the case where donated sperm has been used. If the woman was married to or in a civil partnership with a man at the time of creation of an embryo using donor sperm and her husband or civil partner dies before transfer of the embryo to her, she may elect that he should be treated as the child's father for the purposes of birth registration, subject to

the consents described above. If the woman and man were not married or in a civil partnership at the time of creation of the embryo, there are additional requirements in that the agreed fatherhood conditions must have been met immediately before the man's death and the embryo must have been created in the course of licensed treatment services.

28. *Clause 26* prevents a man from being treated as a child's father in certain cases even though the man's sperm was used. Subsection (1) prevents a man who has donated his sperm for the treatment of others from being treated as the father. This applies even where there is no father by virtue of *clauses 20 or 21*. Subsection (2) provides that where a man's sperm, or an embryo created with his sperm, is used after his death, he is not in general to be treated as the father or any resulting child. *Clause 24* (which applies only for the purposes of birth registration) provides a limited exception to this rule.
29. *Clause 27* brings the provision for female same sex couples who are married or in a civil partnership into line with that which applies non-same sex marriages and civil partnerships. Where a female spouse or civil partner gives birth to a child conceived as a result of donor insemination (anywhere in the world), she is the mother of the child and her female spouse or civil partner will automatically be the other parent, unless the other party to the marriage or civil partnership did not consent to the mother's treatment.
30. *Clauses 27 and 28* make provision about same-sex female couples who are not married or civil partners. This is similar to the provision made about opposite-sex couples by *clauses 21 and 22*. Where one of the women has a child as a result of conception services provided in an Island or UK licensed clinic and the couple have in place, at the time of the transfer of the sperm or embryo which results in conception, current notices of consent to the other woman being treated as a parent, then she will be a legal parent. The same provisions about withdrawing consent and providing information to the other party will apply (see the above note on *clauses 21 and 22*). Again, notice cannot be given by two persons who are within the prohibited degrees of relationship to each other. A notice under *clause 29* must be in writing and signed by the person giving their consent. The requirement for a signature is waived, however, if any of the parties involved are unable to sign because of illness, injury or physical disability (although the notice must still be signed at the direction of the person and witnessed).
31. *Clause 30* provides that *clauses 28 and 29* will not affect who is to be considered the parent of a child in various circumstances such as the presumption that a child is the legitimate child of a couple who are married or in a civil partnership or if the child has been adopted.
32. *Clause 31* makes provision about registration of a deceased female same sex partner as a child's parent in the register of births in certain circumstances. The provision for spouses and civil partners is comparable to that under *clause 25* for non-same sex married couples or civil partners using donor sperm. The

- provision for other female same sex couples is comparable to that for unmarried non-same sex couples using donor sperm.
33. *Clause 32* makes clear that where a woman has not carried a child she will only be treated as a parent of the child if the provisions relating to parenthood of the mother's partner apply, or she has adopted the child. Egg donation will not of itself make a woman the parent of a child carried by another woman.
 34. *Clause 33* further explains the effect of the provisions of *clauses 18 to 32*. Where these provisions treat a person as the mother, father or parent of a child, or as not being the parent of the child, this status will apply for all legal purposes. However if a deceased man or woman is treated as the father or parent of a child under *clauses 24, 25 and 31* this will only apply for the purpose of birth registration and will not apply for any other purpose. The new parenthood provisions do not affect the succession to any dignity or title of honour or to any property or rights that devolve with a dignity or title of that honour.
 35. *Clause 34* clarifies what is meant where reference is made in this Part of the resulting Act to parties to a marriage and *clause 35* provides the meaning of references to parties to a civil partnership. *Clause 36* states the meaning of "relevant register of births".
 36. *Clause 37* allows for extension of the period during which a woman may elect for her deceased partner to be treated as her child's parent for the purposes of birth registration, with the consent of the Registrar General.
 37. *Clause 38* provides for references to a child's father in legislation and in other documents whenever passed or made to be read, in relevant cases, as references to a woman who is the child's parent by virtue of the Act's provision for parenthood in *clauses 27 and 28*. Although some legislation is expressly amended by Schedule 2 to take account of the possibility that a child may have two female parents, this provision reduces the need for additional consequential amendments.
 38. *Clause 39* sets out the categories of couples who can apply for a parental order where a child has been conceived using the gametes of at least one of the couple, and has been carried by a surrogate mother. Married partners and civil partners are able to apply, as can unmarried opposite-sex couples or same-sex couples.
 39. *Clause 40* enables single applicants to apply for a parental order where a child has been conceived using the gametes of the applicant, and has been carried by a surrogate mother.
 40. *Clause 41* enables the Department by regulations to give effect to provisions of the *Adoption Act 2021* in relation parental orders.
 41. *Clause 42* enables the Council of Ministers to make orders to give reciprocal effect in the Island to parental orders made in the United Kingdom or the Channel Islands.

Part 4 – Surrogacy arrangements

42. This Part re-enacts, with minor updates, the provisions relating to surrogacy in Part 9 of the *Children and Young Persons Act 2001*.
43. *Clause 43* defines certain terms used in this Part.
44. *Clause 44* provides that surrogacy agreements are unenforceable under Manx law.
45. *Clauses 45 and 46* prohibits organisations, or people other than intended parents or surrogate mothers themselves, from undertaking certain activities relating to surrogacy on a commercial basis. Bodies that operate on a not-for-profit basis are allowed to receive reasonable payment for providing certain surrogacy services. The clauses create criminal offences and provide the penalties in relation to the commission of such offences.
46. *Clause 47* provides that it is a criminal offence for a person to advertise in the Island that the person is looking for a surrogate or is willing to act as a surrogate, or that a third party is willing to facilitate the making of a surrogacy arrangement (although this last offence does not apply to non-profit making bodies).
47. *Clause 48* enables the Department to make regulations which give effect in the Island to provisions of UK legislation relating to surrogacy. This is a new provision included to enable the Island to keep pace with developments in the UK in this area.

Part 5 – Closing provisions

48. *Clause 49* introduces Schedule 1 which contains consequential amendments.
49. *Clause 50* contains transitional, repeal and saving provisions. In particular, sections 86 to 88 of the *Children and Young Persons Act 2001* continue to have effect in relation to children carried by women as a result of the placing in them of embryos or of sperm and eggs, or their artificial insemination (as the case may be), before the commencement of sections 18 to 33 of the resulting Act. The text of sections 86 to 88 is set out in Schedule 2 to assist the reader.
50. *Clause 51* contains a power for the Department to make further consequential provision by regulations to give full effect to the resulting Act.



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REPRODUCTIVE RIGHTS BILL 2024

1 **A BILL** to make certain new provision in relation to fertilisation, embryology
 2 and surrogacy; to make new provision about the persons who in certain
 3 circumstances are to be treated as the parents of a child; to amend the Civil
 4 Registration Act 1984 consequentially in relation to registering births; and for
 5 connected purposes.

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and
 consent of the Council and Keys in Tynwald assembled, and by the authority of the
 same, as follows:—

6 **PART 1 – INTRODUCTORY**

7 **1 Short title**

8 The short title of this Act is the Reproductive Rights Act 2024.

9 **2 Commencement**

10 (1) This Act, apart from section 1, this section and the definition of
 11 “Department” in section 4(1), comes into operation on such day or days
 12 as the Department may by order appoint.

13 Tynwald procedure – laying only.

14 (2) An order under subsection (1) may include such supplemental,
 15 incidental, consequential and transitional provisions as appear to the
 16 Department to be necessary or expedient.

17 **3 Meaning of “embryo”, “gamete” and associated expressions**

18 P1990/37/1 and drafting

19 (1) In this Act (except in section 12 or in the term “human admixed
 20 embryo”) –

21 (a) embryo means a live human embryo and does not include a
 22 human admixed embryo (as defined by section 12(6)); and

(b) references to an embryo include an egg that is in the process of fertilisation or is undergoing any other process capable of resulting in an embryo.

(2) This Act, so far as it governs bringing about the creation of an embryo, applies only to bringing about the creation of an embryo outside the human body; and in this Act –

(a) references to embryos the creation of which was brought about *in vitro* (in their application to those where fertilisation or any other process by which an embryo is created is complete) are to those where fertilisation or any other process by which the embryo was created began outside the human body; and

(b) references to embryos taken from a woman do not include embryos whose creation was brought about *in vitro*.

(3) This Act, so far as it governs the keeping or use of an embryo, applies only to keeping or using an embryo outside the human body.

(4) In this Act (except in section 12) –

(a) references to eggs are to live human eggs which could be fertilised, including cells of the female germ line at any stage of maturity, but (except in subsection (1)(b)) not including eggs that are in the process of fertilisation or are undergoing any other process capable of resulting in an embryo;

(b) references to sperm are to human sperm which could fertilise, including cells of the male germ line at any stage of maturity; and

(c) references to gametes are to be read accordingly.

(5) For the purposes of this Act, sperm is to be treated as partner-donated sperm if the donor of the sperm and the recipient of the sperm declare that they have an intimate physical relationship.

(6) If it appears to the Department necessary or desirable to do so in the light of developments in science or medicine, the Department may by regulations provide that in this Act (except in section 12) “embryo”, “eggs”, “sperm” or “gametes” includes things specified in the regulations which would not otherwise fall within the definition.

Tynwald procedure –approval required.

(7) Regulations made by virtue of subsection (6) may not provide for anything containing any nuclear or mitochondrial DNA that is not human to be treated as an embryo or as eggs, sperm or gametes.

4 Interpretation: other terms

(1) In this Act –

“**conception services**” means medical, surgical or obstetric services provided for the purpose of assisting women to conceive;

- 1 “**Department**” means the Department of Health and Social Care;
- 2 “**embryo**” has the meaning given by section 3;
- 3 “**female germ cells**” means cells of the female germ line and includes such cells
4 at any stage of maturity and accordingly includes eggs;
- 5 “**human admixed embryo**” has the meaning given by section 12(6);
- 6 “**human application**” means use in a human recipient;
- 7 “**licence**” means a licence issued pursuant to an order under section 14;
- 8 “**non-medical conception services**” means any services that are provided, in the
9 course of a business, for the purpose of assisting women to conceive, but
10 are not medical, surgical or obstetric services;
- 11 “**payment**” means payment in money or money’s worth;
- 12 “**person responsible**” –
- 13 (a) in relation to a licence, is to be construed in accordance with an
14 order under section 14; and
- 15 (b) in relation to a UK licence, is to be construed in accordance with
16 section 17 of the Human Fertilisation and Embryology Act 1990
17 (of Parliament);
- 18 “**processing**”, in relation to gametes or embryos intended for human
19 application, means any operation involved in their preparation,
20 manipulation or packaging, and related terms are to be interpreted
21 accordingly;
- 22 “**prohibited degrees of relationship**” has the meaning given by section 17;
- 23 “**store**”, in relation to gametes, embryos or human admixed embryos, means
24 preserve, whether by cryopreservation or in any other way, and
25 “storage” and “stored” are to be interpreted accordingly;
- 26 “**UK licence**” means a licence issued pursuant to Schedule 2 to the Human
27 Fertilisation and Embryology Act 1990 (of Parliament).
- 28 (2) References in Part 2 to keeping, in relation to embryos, gametes or
29 human admixed embryos, include keeping while preserved in storage.
- 30 (3) For the purposes of this Act, a woman is not to be treated as carrying a
31 child until the embryo has become implanted.

32 5 **Conscientious objection**

33 P1990/37/38

- 34 (1) No person who has a conscientious objection to participating in any
35 activity governed by Part 2 shall be under any duty, however arising, to
36 do so.
- 37 (2) In any legal proceedings the burden of proof of conscientious objection
38 shall rest on the person claiming to rely on it.

PART 2 – HUMAN FERTILISATION AND EMBRYOLOGY

Departmental functions and procedure

6 General functions of the Department

P1990/37/8 and drafting

- (1) In this Part, activities regulated by sections 8 to 12 are referred to as “activities governed by this Part”.
- (2) The Department shall –
 - (a) keep under review information about embryos and any subsequent development of embryos and about the provision of conception services and activities governed by this Part;
 - (b) publicise the services provided to the public by the Department or provided in pursuance of licences;
 - (c) provide, to such extent as it considers appropriate, advice and information for persons to whom licences apply or who are receiving conception services or providing gametes or embryos for use for the purposes of activities governed by this Part, or may wish to do so;
 - (d) maintain a statement of the general principles which it considers should be followed –
 - (i) in the carrying-on of activities governed by this Part; and
 - (ii) in the carrying-out of its functions in relation to such activities;
 - (e) promote, in relation to activities governed by this Part, compliance with –
 - (i) requirements imposed by or under this Act; and
 - (ii) the code of practice under section 7; and
 - (f) perform such other functions as may be specified in regulations made by the Department.
Tynwald procedure – approval required.
- (3) The Department may, if it thinks fit, charge a fee for any advice provided under subsection (2)(c).
- (4) The Department shall carry out its functions effectively, efficiently and economically.
- (5) In carrying out its functions, the Department shall, so far as relevant, have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed).

7 Code of practice

P1990/37/25 and drafting

- (1) The Department shall maintain a code of practice giving guidance about the proper conduct of activities carried on in pursuance of a licence under this Part and the proper discharge of the functions of the person responsible and other persons to whom the licence applies.
- Tynwald procedure – laying only.
- (2) The guidance given by the code shall include guidance for those providing conception services about the account to be taken of the welfare of children who may be born as a result of conception services (including a child’s need for supportive parenting), and of other children who may be affected by such births.
- (3) The code shall also give guidance about –
- (a) the giving of a suitable opportunity to receive proper counselling; and
- (b) the provision of such relevant information as is proper,
- in accordance with a licence granted in accordance with section 14(1).
- (4) The code may also give guidance about the use of any technique involving the placing of sperm and eggs in a woman.
- (5) The Department may from time to time revise the whole or any part of the code.
- Tynwald procedure – laying only.
- (6) The Department shall publish the code as for the time being in operation.
- (7) A failure on the part of any person to observe any provision of the code shall not of itself render the person liable to any proceedings, but –
- (a) the Department shall, in considering whether there has been any failure to comply with any conditions of a licence and, in particular, conditions requiring anything to be “proper” or “suitable”, take account of any relevant provision of the code; and
- (b) the Department may, in considering, where it has power to do so, whether or not to vary or revoke a licence, take into account any observance of or failure to observe the provisions of the code.

*Activities governed by this Part***8 Prohibitions in connection with embryos**

P1990/37/3 and drafting

- (1) No person shall bring about the creation of an embryo except in pursuance of a licence.
- (2) No person shall keep or use an embryo except in pursuance of a licence.

- 1 (3) No person shall procure or distribute an embryo intended for human
2 application except in pursuance of a licence.
- 3 (4) No person shall place in a woman —
4 (a) an embryo other than a permitted embryo (as defined by section
5 9); or
6 (b) any gametes other than permitted eggs or permitted sperm (as
7 defined in section 9).
- 8 (5) A licence cannot authorise —
9 (a) keeping or using an embryo after the appearance of the primitive
10 streak;
11 (b) placing an embryo in any animal; or
12 (c) keeping or using an embryo in any circumstances in which
13 regulations made by the Department prohibit its keeping or use.
14 Tynwald procedure – approval required.
- 15 (6) For the purposes of subsection (5)(a), the primitive streak is to be taken to
16 have appeared in an embryo not later than the end of the period of 14
17 days beginning with the day on which the process of creating the embryo
18 began, not counting any time during which the embryo is stored.
- 19 (7) If it appears to the Department necessary or desirable to do so in the light
20 of developments in science or medicine, the Department may by
21 regulations vary the period of days specified in subsection (6).
22 Tynwald procedure – approval required.

23 **9 Permitted eggs, permitted sperm and permitted embryos**

24 P1990/37/3ZA and drafting

- 25 (1) This section has effect for the interpretation of section 8(4).
- 26 (2) A permitted egg is one —
27 (a) which has been produced by or extracted from the ovaries of a
28 woman;
29 (b) whose nuclear or mitochondrial DNA has not been altered; and
30 (c) which has derived from induced stem cells.
- 31 (3) Permitted sperm are sperm —
32 (a) which have been produced by or extracted from the testes of a
33 man;
34 (b) whose nuclear or mitochondrial DNA has not been altered; and
35 (c) which have derived from induced stem cells.
- 36 (4) An embryo is a permitted embryo if —
37 (a) it has been created by the fertilisation of a permitted egg by
38 permitted sperm;

- 1 (b) no nuclear or mitochondrial DNA of any cell of the embryo has
2 been altered; and
- 3 (c) no cell has been added to it other than by division of the embryo's
4 own cells.
- 5 (5) The Department may by regulations provide that —
- 6 (a) an egg can be a permitted egg; or
- 7 (b) an embryo can be a permitted embryo,
8 even though the egg or embryo has had applied to it in prescribed
9 circumstances a prescribed process designed to prevent the transmission
10 of serious mitochondrial disease.
- 11 Tynwald procedure – approval required.
- 12 (6) In this section —
- 13 (a) “woman” and “man” include respectively a girl and a boy (from
14 birth); and
- 15 (b) “prescribed” means prescribed by regulations made under
16 subsection (5).

17 **10 Prohibition in connection with germ cells**

18 P1990/37/3A and drafting

19 No person shall, for the purpose of providing conception services for any
20 woman, use female germ cells taken or derived from an embryo or a foetus or
21 use embryos created by using such cells.

22 **11 Prohibitions in connection with gametes**

23 P1990/37/4 and drafting

- 24 (1) No person shall —
- 25 (a) store any gametes; or
- 26 (b) in the course of providing conception services for any woman,
27 use —
- 28 (i) any sperm, other than partner-donated sperm which has
29 been neither processed nor stored;
- 30 (ii) the woman's eggs after processing or storage; or
- 31 (iii) the eggs of any other woman,
32 except in pursuance of a licence.
- 33 (2) No person shall procure, test, process or distribute any gametes intended
34 for human application except in pursuance of a licence.
- 35 (3) A licence cannot authorise storing or using gametes in any circumstances
36 in which regulations made by the Department prohibit their storage or
37 use.

- 1 Tynwald procedure – approval required.
- 2 (4) No person shall place sperm and eggs in a woman in any circumstances
3 specified in regulations made by the Department except in pursuance of
4 a licence.
5 Tynwald procedure – approval required.
- 6 **12 Prohibitions in connection with genetic material not of human origin**
7 P1990/37/4A and drafting
- 8 (1) No person shall place in a woman –
9 (a) a human admixed embryo;
10 (b) any other embryo that is not a human embryo; or
11 (c) any gametes other than human gametes.
- 12 (2) No person shall –
13 (a) mix human gametes with animal gametes;
14 (b) bring about the creation of a human admixed embryo; or
15 (c) keep or use a human admixed embryo,
16 except in pursuance of a licence.
- 17 (3) A licence cannot authorise keeping or using a human admixed embryo
18 after the earliest of the following –
19 (a) the appearance of the primitive streak; or
20 (b) the end of the period of 14 days beginning with the day on which
21 the process of creating the human admixed embryo began, but not
22 counting any time during which the human admixed embryo is
23 stored.
- 24 (4) A licence cannot authorise placing a human admixed embryo in an
25 animal.
- 26 (5) A licence cannot authorise keeping or using a human admixed embryo in
27 any circumstances in which regulations made by the Department
28 prohibit its keeping or use.
29 Tynwald procedure – approval required.
- 30 (6) For the purposes of this Act a human admixed embryo is –
31 (a) an embryo created by replacing the nucleus of an animal egg or of
32 an animal cell, or two animal pronuclei, with –
33 (i) two human pronuclei;
34 (ii) one nucleus of a human gamete or of any other human cell;
35 or
36 (iii) one human gamete or other human cell;
37 (b) any other embryo created by using –
38 (i) human gametes and animal gametes; or

- 1 (ii) one human pronucleus and one animal pronucleus;
- 2 (c) a human embryo that has been altered by the introduction of any
- 3 sequence of nuclear or mitochondrial DNA of an animal into one
- 4 or more cells of the embryo;
- 5 (d) a human embryo that has been altered by the introduction of one
- 6 or more animal cells; or
- 7 (e) any embryo not falling within paragraphs (a) to (d) which
- 8 contains both nuclear or mitochondrial DNA of a human and
- 9 nuclear or mitochondrial DNA of an animal (“animal DNA”) but
- 10 in which the animal DNA is not predominant.
- 11 (7) In subsection (6) –
- 12 (a) references to animal cells are to cells of an animal or of an animal
- 13 embryo; and
- 14 (b) references to human cells are to cells of a human or of a human
- 15 embryo.
- 16 (8) For the purposes of this section an “animal” is an animal other than a
- 17 human.
- 18 (9) In this section “embryo” means a live embryo, including an egg that is in
- 19 the process of fertilisation or is undergoing any other process capable of
- 20 resulting in an embryo.
- 21 (10) In this section –
- 22 (a) references to eggs are to live eggs, including cells of the female
- 23 germ line at any stage of maturity, but (except in subsection (9))
- 24 not including eggs that are in the process of fertilisation or are
- 25 undergoing any other process capable of resulting in an embryo;
- 26 and
- 27 (b) references to gametes are to eggs (as so defined) or to sperm,
- 28 including cells of the male germ line at any stage of maturity.
- 29 (11) If it appears to the Department necessary or desirable to do so in the light
- 30 of developments in science or medicine, the Department may by
- 31 regulations do any of the following –
- 32 (a) vary the period of days specified in subsection (3)(b);
- 33 (b) amend (but not repeal) paragraphs (a) to (e) of subsection (6);
- 34 (c) provide that in this section “embryo”, “eggs” or “gametes”
- 35 includes things specified in the regulations which would not
- 36 otherwise fall within the definition.
- 37 Tynwald procedure – approval required.
- 38 (12) Regulations made by virtue of subsection (11)(b) may make any
- 39 amendment of subsection (7) that appears to the Department to be
- 40 appropriate in consequence of any amendment of subsection (6).

Offences

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13 Offences under Part 2

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P1990/37/41 and drafting

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(1) A person who—

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(a) contravenes section 8(4), 10 or 12(1) or (2); or

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(b) does anything which, by virtue of section 8(5), cannot be authorised by a licence,

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is guilty of an offence and liable on conviction on information to custody for a term not exceeding 10 years or a fine, or to both.

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(2) A person who—

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(a) contravenes section 8(1) or (2), otherwise than by doing something which, by virtue of section 8(5), cannot be authorised by a licence;

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(b) contravenes section 8(3);

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(c) keeps any gametes in contravention of section 11(1)(a);

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(d) uses any gametes in contravention of section 11(1)(b);

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(e) contravenes section 11(2); or

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(f) contravenes section 11(4),

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is guilty of an offence.

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(3) If a person—

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(a) provides any information for the purposes of the grant of a licence, being information which is false or misleading in a material particular; and

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(b) either the person knows the information to be false or misleading in a material particular or the person provides the information recklessly,

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the person is guilty of an offence.

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(4) A person guilty of an offence under subsection (2) or (3) is liable—

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(a) on conviction on information, to custody for a term not exceeding 2 years or a fine, or to both; and

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(b) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding the level 5 on the standard scale, or to both.

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(5) In relation to an offence under this Part, section 75(1) of the *Summary Jurisdiction Act 1989* (time-limit for summary proceedings) applies with the substitution for “6 months” of “2 years”.

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- 1 (6) It is a defence for a person (“the defendant”) charged with an offence of
 2 doing anything which, under this Part, cannot be done except in
 3 pursuance of a licence to prove –
 4 (a) that the defendant was acting under the direction of another; and
 5 (b) that the defendant believed on reasonable grounds –
 6 (i) that the other person was at the material time the person
 7 responsible under a licence issued under this Part; and
 8 (ii) that the defendant was authorised by virtue of the licence
 9 to do the thing in question.
- 10 (7) It is a defence for a person charged with an offence under this Part to
 11 prove –
 12 (a) that at the material time the person was a person to whom a
 13 licence issued under this Part applied; and
 14 (b) that the person took all such steps as were reasonable and
 15 exercised all due diligence to avoid committing the offence.

16 *Miscellaneous enabling provisions*

17 **14 Provision for licensing of certain activities**

18 2001/20/85 and drafting

- 19 (1) The Department may by order provide for the licensing of any of the
 20 activities specified in –
 21 (a) section 8(1), (2) or (3);
 22 (b) section 11(1), (2) or (4); or
 23 (c) section 12(2).
 24 Tynwald procedure – approval required.
- 25 (2) In any proceedings for an offence under section 13(1) or (2) consisting in
 26 any of those activities, it is a defence for the person accused to show that
 27 the activity was carried on in pursuance of a licence granted in
 28 accordance with an order under subsection (1).
- 29 (3) An order under subsection (1) may provide for the application to the
 30 Island, as part of the law of the Island, of any of the following
 31 legislation –
 32 (a) sections 11 to 26 of the Human Fertilisation and Embryology Act
 33 1990 (of Parliament);
 34 (b) any provision of UK legislation amending, varying or modifying
 35 those sections, directly or indirectly;
 36 (c) any statutory instrument made or having effect as if made under
 37 that Act,

subject to such exceptions, adaptations and modifications as may be specified in the order.

(4) An order under subsection (1) may either –

(a) provide for the establishment of a body of persons with the function of licensing any activity mentioned in subsection (1), and with such advisory functions relating to those activities and any other activities mentioned in sections 8 to 13 as appear to the Department to be appropriate; or

(b) confer such licensing and advisory functions on a body of persons established otherwise than by the order (including a body established in the United Kingdom).

(5) An order under subsection (1) –

(a) may make such transitional, consequential, incidental and supplemental provision as appears to the Department to be necessary or expedient for the purposes of the order; and

(b) may repeal or amend any enactment (including an enactment contained in this Part, other than sections 8 to 13 and this section) appearing to the Department to be inconsistent with, or to have become unnecessary or to require amendment in consequence of, the order.

15 Mitochondrial donation

P1990/37/35A and drafting

(1) The Department may by regulations provide for any of the relevant provisions to have effect subject to specified modifications in relation to cases where –

(a) an egg which is a permitted egg for the purposes of section 9(2) by virtue of regulations made under section 9(5); or

(b) an embryo which is a permitted embryo for those purposes by virtue of such regulations,

has been created from material provided by two women.

Tynwald procedure – approval required.

(2) In this section “the relevant provisions” means sections 39 and 40 (parental orders).

16 Keeping and examining gametes and embryos in connection with crime, etc.

P1990/37/43 and drafting

(1) The Department may by regulations provide –

(a) for the keeping and examination of gametes or embryos, in such manner and on such conditions (if any) as may be specified in

- 1 regulations, in connection with the investigation of, or
2 proceedings for, an offence (wherever committed); or
- 3 (b) for the storage of gametes, in such manner and on such conditions
4 (if any) as may be specified in regulations, where they are to be
5 used only for such purpose, other than conception services, as
6 may be specified in regulations.
- 7 Tynwald procedure – approval required.
- 8 (2) Nothing in this Act makes unlawful the keeping or examination of any
9 gametes or embryos in pursuance of regulations made by virtue of this
10 section.
- 11 (3) In this section “examination” includes use for the purposes of any test.

12 PART 3 – PARENTHOOD IN CASES INVOLVING ASSISTED 13 REPRODUCTION

14 *Prohibited degrees of relationship*

15 17 Prohibited degrees of relationship

16 P2008/22/58(2)

17 For the purposes of this Part, two persons are within prohibited degrees of
18 relationship if one is the other’s parent, grandparent, sister, brother, aunt or
19 uncle; and in this subsection references to relationships –

- 20 (a) are to relationships of the full blood or half blood or, in the case of
21 an adopted person, such of those relationships as would subsist
22 but for adoption; and
- 23 (b) include the relationship of a child with the child’s adoptive, or
24 former adoptive, parents,

25 but do not include any other adoptive relationships.

26 *Meaning of “mother”*

27 18 Meaning of “mother”

28 P2008/22/33 and drafting

- 29 (1) The woman who is carrying or has carried a child as a result of the
30 placing in her of an embryo or of sperm and eggs, and no other woman,
31 is to be treated as the mother of the child.
- 32 (2) Subsection (1) does not apply to any child to the extent that the child is
33 treated by virtue of adoption as not being the woman’s child.
- 34 (3) Subsection (1) applies whether the woman was in the Island or elsewhere
35 at the time of the placing in her of the embryo or the sperm and eggs.

Application of sections 20 to 32

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19 Application of sections 20 to 32

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P2008/22/34 and drafting

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(1) Sections 20 to 32 apply, in the case of a child who is being or has been carried by a woman (referred to in those sections as “W”) as a result of the placing in her of an embryo or of sperm and eggs or her artificial insemination, to determine who is to be treated as the other parent of the child.

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(2) Subsection (1) has effect subject to the provisions of sections 24, 25 and 31 limiting the purposes for which a person is treated as the child’s other parent by virtue of those sections.

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Meaning of “father”

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20 Woman married to, or civil partner of, a man at time of treatment

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P2008/22/35 and drafting

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(1) If —

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(a) at the time of the placing in her of the embryo or of the sperm and eggs or of her artificial insemination, W was a party to a marriage with a man or a civil partnership with a man; and

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(b) the creation of the embryo carried by her was not brought about with the sperm of the other party to the marriage or civil partnership,

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then, subject to section 23(2) and (3), the other party to the marriage or civil partnership is to be treated as the father of the child unless it is shown that the person did not consent to the placing in her of the embryo or the sperm and eggs or to her artificial insemination (as the case may be).

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(2) This section applies whether W was in the Island or elsewhere at the time mentioned in subsection (1)(a).

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21 Treatment provided to woman where agreed fatherhood conditions apply

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P2008/22/36 and drafting

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If no man is treated by virtue of section 20 as the father of the child and no woman is treated by virtue of section 27 as a parent of the child but —

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(a) the embryo or the sperm and eggs were placed in W, or W was artificially inseminated, in the course of conception services provided —

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(i) in the Island by a person to whom a licence applies; or

- 1 (ii) in the United Kingdom by a person to whom a UK licence
2 applies;
- 3 (b) at the time when the embryo or the sperm and eggs were placed
4 in W, or W was artificially inseminated, the agreed fatherhood
5 conditions (as set out in section 22) were satisfied in relation to a
6 man, in relation to treatment provided to W under the licence;
- 7 (c) the man remained alive at that time; and
- 8 (d) the creation of the embryo carried by W was not brought about
9 with the man's sperm,
- 10 then, subject to section 23(2) and (3), the man is to be treated as the father
11 of the child.

12 22 The agreed fatherhood conditions

13 P2008/22/37 and drafting

- 14 (1) The agreed fatherhood conditions referred to in section 21(b) are met in
15 relation to a man ("M") in relation to treatment provided to W under a
16 licence if, but only if, —
- 17 (a) M has given the person responsible a notice stating that M
18 consents to being treated as the father of any child resulting from
19 treatment provided to W under the licence;
- 20 (b) W has given the person responsible a notice stating that she
21 consents to M being so treated;
- 22 (c) neither M nor W has, since giving notice under paragraph (a) or
23 (b), given the person responsible notice of the withdrawal of M's
24 or W's consent to M being so treated;
- 25 (d) W has not, since the giving of the notice under paragraph (b),
26 given the person responsible —
- 27 (i) a further notice under that paragraph stating that she
28 consents to another man being treated as the father of any
29 resulting child; or
- 30 (ii) a notice under section 29(1)(b) stating that she consents to a
31 woman being treated as a parent of any resulting child;
32 and
- 33 (e) W and M are not within prohibited degrees of relationship in
34 relation to each other.
- 35 (2) A notice under subsection (1)(a), (b) or (c) must be in writing and must
36 be signed by the person giving it.
- 37 (3) A notice under subsection (1)(a), (b) or (c) by a person ("S") who is
38 unable to sign because of illness, injury or physical disability is to be
39 taken to comply with the requirement of subsection (2) as to signature if
40 it is signed at the direction of S, in the presence of S and in the presence
41 of at least one witness who attests the signature.

23 Further provision relating to sections 20 and 21

P2008/22/38 and drafting

- (1) Where a person is to be treated as the father of the child by virtue of section 20 or 21, no other person is to be treated as the father of the child.
- (2) Sections 20 and 21 do not affect any presumption, applying by virtue of the rules of common law or the *Legitimacy Act 1985*, the *Civil Partnership Act 2011* or paragraph 2 of Schedule 2 to the *Marriage and Civil Partnership (Amendment) Act 2016*, that a child is the legitimate child of the parties to a marriage or civil partnership.
- (3) Sections 20 and 21 do not apply to any child to the extent that the child is treated by virtue of adoption as not being the man's child.

24 Use of sperm, or transfer of embryo, after death of man providing sperm

P2008/22/39 and drafting

- (1) If —
 - (a) the child has been carried by W as a result of the placing in her of an embryo or of sperm and eggs or her artificial insemination;
 - (b) the creation of the embryo carried by W was brought about by using the sperm of a man after his death, or the creation of the embryo was brought about using the sperm of a man before his death but the embryo was placed in W after his death;
 - (c) the man consented in writing (and did not withdraw the consent) —
 - (i) to the use of his sperm after his death which brought about the creation of the embryo carried by W or (as the case may be) to the placing in W after his death of the embryo which was brought about using his sperm before his death; and
 - (ii) to being treated for the purpose mentioned in subsection (3) as the father of any resulting child;
 - (d) W has elected in writing not later than the end of the period of 42 days from the day on which the child was born for the man to be treated for the purpose mentioned in subsection (3) as the father of the child; and
 - (e) no-one else is to be treated —
 - (i) as the father of the child by virtue of section 20 or 21 or by virtue of section 23(2) or (3); or
 - (ii) as a parent of the child by virtue of section 27 or 28 or by virtue of adoption,
- then the man is to be treated for the purpose mentioned in subsection (3) as the father of the child.

- 1 (2) Subsection (1) applies whether W was in the Island or elsewhere at the
2 time of the placing in her of the embryo or of the sperm and eggs or of
3 her artificial insemination.
- 4 (3) The purpose referred to in subsection (1) is the purpose of enabling the
5 man's particulars to be entered as the particulars of the child's father in a
6 relevant register of births.

7 **25 Embryo transferred after death of male spouse, civil partner or**
8 **intended parent who did not provide sperm**

9 P2008/22/40 and drafting

- 10 (1) If —
- 11 (a) the child has been carried by W as a result of the placing in her of
12 an embryo;
- 13 (b) the embryo was created at a time when W was a party to a
14 marriage with a man or a civil partnership with a man;
- 15 (c) the creation of the embryo was not brought about with the sperm
16 of the other party to the marriage or civil partnership;
- 17 (d) the other party to the marriage or civil partnership died before the
18 placing of the embryo in W;
- 19 (e) the other party to the marriage or civil partnership consented in
20 writing (and did not withdraw the consent) —
- 21 (i) to the placing of the embryo in W after his death; and
22 (ii) to being treated for the purpose mentioned in subsection
23 (4) as the father of any resulting child;
- 24 (f) W has elected in writing not later than the end of the period of 42
25 days from the day on which the child was born for the man to be
26 treated for the purpose mentioned in subsection (4) as the father
27 of the child; and
- 28 (g) no-one else is to be treated —
- 29 (i) as the father of the child by virtue of section 20 or 21 or by
30 virtue of section 23(2) or (3); or
- 31 (ii) as a parent of the child by virtue of section 27 or 28 or by
32 virtue of adoption,
- 33 then the man is to be treated for the purpose mentioned in subsection (4)
34 as the father of the child.
- 35 (2) If —
- 36 (a) the child has been carried by W as a result of the placing in her of
37 an embryo;
- 38 (b) the embryo was not created at a time when W was a party to a
39 marriage or a civil partnership but was created in the course of

1 conception services provided to W by a person to whom a licence
2 applies;

- 3 (c) a man consented in writing (and did not withdraw the consent) —
4 (i) to the placing of the embryo in W after his death; and
5 (ii) to being treated for the purpose mentioned in subsection
6 (4) as the father of any resulting child;
- 7 (d) the creation of the embryo was not brought about with the sperm
8 of that man;
- 9 (e) the man died before the placing of the embryo in W;
- 10 (f) immediately before the man's death, the agreed fatherhood
11 conditions set out in section 22 were met in relation to the man in
12 relation to treatment proposed to be provided to W by a person to
13 whom a licence applies;
- 14 (g) W has elected in writing not later than the end of the period of 42
15 days from the day on which the child was born for the man to be
16 treated for the purpose mentioned in subsection (4) as the father
17 of the child; and
- 18 (h) no-one else is to be treated —
19 (i) as the father of the child by virtue of section 20 or 21 or by
20 virtue of section 23(2) or (3); or
21 (ii) as a parent of the child by virtue of section 27 or 28 or by
22 virtue of adoption,

23 then the man is to be treated for the purpose mentioned in subsection (4)
24 as the father of the child.

- 25 (3) Subsections (1) and (2) apply whether W was in the Island or elsewhere
26 at the time of the placing in her of the embryo.
- 27 (4) The purpose referred to in subsections (1) and (2) is the purpose of
28 enabling the man's particulars to be entered as the particulars of the
29 child's father in a relevant register of births.

30 **26 Persons not to be treated as father**

31 P2008/22/41 and drafting

- 32 (1) Where the sperm of a man who has consented to its use for the purposes
33 of conception services or non-medical conception services is used for a
34 purpose for which such consent was required, he is not to be treated as
35 the father of the child.
- 36 (2) Where the sperm of a man, or an embryo the creation of which was
37 brought about with his sperm, was used after his death, he is not, subject
38 to section 24, to be treated as the father of the child.

- 1 (3) Subsection (2) applies whether W was in the Island or elsewhere at the
2 time of the placing in her of the embryo or of the sperm and eggs or of
3 her artificial insemination.

4 *Cases in which woman to be other parent*

5 **27 Woman in marriage or civil partnership to a woman at time of**
6 **treatment**

7 P2008/22/42 and drafting

- 8 (1) If at the time of the placing in her of the embryo or the sperm and eggs or
9 of her artificial insemination, W was a party to a marriage with another
10 woman or a civil partnership with another woman, then subject to
11 section 30(2) and (3), the other party to the marriage or civil partnership
12 is to be treated as a parent of the child unless it is shown that she did not
13 consent to the placing in W of the embryo or the sperm and eggs or to
14 her artificial insemination (as the case may be).
- 15 (2) This section applies whether W was in the Island or elsewhere at the time
16 mentioned in subsection (1).

17 **28 Treatment provided to woman who agrees that second woman to be**
18 **parent**

19 P2008/22/43 and drafting

20 If no man is treated by virtue of section 20 as the father of the child and no
21 woman is treated by virtue of section 27 as a parent of the child but —

- 22 (a) the embryo or the sperm and eggs were placed in W, or W was
23 artificially inseminated, in the course of conception services
24 provided —
- 25 (i) in the Island by a person to whom a licence applies; or
26 (ii) in the United Kingdom by a person to whom a UK licence
27 applies;
- 28 (b) at the time when the embryo or the sperm and eggs were placed
29 in W, or W was artificially inseminated, the agreed female
30 parenthood conditions (as set out in section 29) were met in
31 relation to another woman, in relation to treatment provided to W
32 under that licence; and
- 33 (c) the other woman remained alive at that time,
- 34 then, subject to section 30(2) and (3), the other woman is to be treated as a
35 parent of the child.

29 The agreed female parenthood conditions

P2008/22/44 and drafting

- (1) The agreed female parenthood conditions referred to in section 28(b) are met in relation to another woman (“P”) in relation to treatment provided to W under a licence if, but only if, —
 - (a) P has given the person responsible a notice stating that P consents to P being treated as a parent of any child resulting from treatment provided to W under the licence;
 - (b) W has given the person responsible a notice stating that W agrees to P being so treated;
 - (c) neither W nor P has, since giving notice under paragraph (a) or (b), given the person responsible notice of the withdrawal of P’s or W’s consent to P being so treated;
 - (d) W has not, since the giving of the notice under paragraph (b), given the person responsible —
 - (i) a further notice under that paragraph stating that W consents to a woman other than P being treated as a parent of any resulting child; or
 - (ii) a notice under section 22(1)(b) stating that W consents to a man being treated as the father of any resulting child; and
 - (e) W and P are not within prohibited degrees of relationship in relation to each other.
- (2) A notice under subsection (1)(a), (b) or (c) must be in writing and must be signed by the person giving it.
- (3) A notice under subsection (1)(a), (b) or (c) by a person (“S”) who is unable to sign because of illness, injury or physical disability is to be taken to comply with the requirement of subsection (2) as to signature if it is signed at the direction of S, in the presence of S and in the presence of at least one witness who attests the signature.

30 Further provision relating to sections 27 and 28

P2008/22/45 and drafting

- (1) Where a woman is treated by virtue of section 27 or 28 as a parent of the child, no man is to be treated as the father of the child.
- (2) Sections 27 and 28 do not affect any presumption, applying by virtue of the rules of common law or the *Legitimacy Act 1985*, the *Civil Partnership Act 2011* or paragraph 2 of Schedule 2 to the *Marriage and Civil Partnership (Amendment) Act 2016* that a child is the legitimate child of the parties to a marriage or civil partnership.
- (3) Sections 27 and 28 do not apply to any child to the extent that the child is treated by virtue of adoption as not being the woman’s child.

31 Embryo transferred after death of female spouse, civil partner or intended parent

P2008/22/46 and drafting

(1) If —

- (a) the child has been carried by W as the result of the placing in her of an embryo;
- (b) the embryo was created at a time when W was a party to a marriage with a woman or a civil partnership with a woman;
- (c) the other party to the marriage or civil partnership died before the placing of the embryo in W;
- (d) the other party to the marriage or civil partnership consented in writing (and did not withdraw the consent) —
 - (i) to the placing of the embryo in W after the death of the other party; and
 - (ii) to being treated for the purpose mentioned in subsection (4) as the parent of any resulting child;
- (e) W has elected in writing not later than the end of the period of 42 days from the day on which the child was born for the other party to the marriage or civil partnership to be treated for the purpose mentioned in subsection (4) as the parent of the child; and
- (f) no one else is to be treated —
 - (i) as the father of the child by virtue of section 20 or 21 or by virtue of section 30(2) or (3); or
 - (ii) as a parent of the child by virtue of section 27 or 28 or by virtue of adoption,

then the other party to the marriage or civil partnership is to be treated for the purpose mentioned in subsection (4) as a parent of the child.

(2) If —

- (a) the child has been carried by W as the result of the placing in her of an embryo;
- (b) the embryo was not created at a time when W was a party to a marriage or a civil partnership, but was created in the course of conception services provided to W by a person to whom a licence applies;
- (c) another woman consented in writing (and did not withdraw the consent) —
 - (i) to the placing of the embryo in W after the death of the other woman; and
 - (ii) to being treated for the purpose mentioned in subsection (4) as the parent of any resulting child;
- (d) the other woman died before the placing of the embryo in W;

- (e) immediately before the other woman's death, the agreed female parenthood conditions set out in section 29 were met in relation to the other woman in relation to treatment proposed to be provided to W by a person to whom a licence applies;
- (f) W has elected in writing not later than the end of the period of 42 days from the day on which the child was born for the other woman to be treated for the purpose mentioned in subsection (4) as the parent of the child; and
- (g) no one else is to be treated —
- (i) as the father of the child by virtue of section 20 or 21 or by virtue of section 30(2) or (3); or
- (ii) as a parent of the child by virtue of section 27 or 28 or by virtue of adoption,

then the other woman is to be treated for the purpose mentioned in subsection (4) as a parent of the child.

- (3) Subsections (1) and (2) apply whether W was in the Island or elsewhere at the time of the placing in her of the embryo.
- (4) The purpose referred to in subsections (1) and (2) is the purpose of enabling the deceased woman's particulars to be entered as the particulars of the child's other parent in a relevant register of births.

32 Woman not to be other parent merely because of egg donation

P2008/22/47 and drafting

A woman is not to be treated as the parent of a child whom she is not carrying and has not carried, except where she is so treated —

- (a) by virtue of section 27 or 28;
- (b) by virtue of section 31 (for the purpose mentioned in subsection (4) of that section); or
- (c) by virtue of adoption.

Effect of sections 18 to 32

33 Effect of sections 18 to 32

P2008/22/48 and drafting

- (1) Where by virtue of section 18, 20, 21, 27 or 28 a person is to be treated as the mother, father or parent of a child, that person is to be treated in law as the mother, father or parent (as the case may be) of the child for all purposes.
- (2) Where by virtue of section 18, 23, 26, 30 or 32 a person is not to be treated as a parent of the child, that person is to be treated in law as not being a parent of the child for any purpose.

- 1 (3) Where section 24(1) or 25(1) or (2) applies, the deceased man —
- 2 (a) is to be treated in law as the father of the child for the purpose
- 3 mentioned in section 24(3) or 25(4); but
- 4 (b) is to be treated in law as not being the father of the child for any
- 5 other purpose.
- 6 (4) Where section 31(1) or (2) applies, the deceased woman —
- 7 (a) is to be treated in law as a parent of the child for the purpose
- 8 mentioned in section 31(4); but
- 9 (b) is to be treated in law as not being a parent of the child for any
- 10 other purpose.
- 11 (5) Where any of subsections (1) to (4) has effect, references to any
- 12 relationship between two people in any enactment, deed or other
- 13 instrument or document (whenever passed or made) are to be read
- 14 accordingly.
- 15 (6) A child who —
- 16 (a) has a parent by virtue of section 27; or
- 17 (b) has a parent by virtue of section 28 who is at any time during the
- 18 period beginning with the time mentioned in section 28(b) and
- 19 ending with the time of the child's birth a party to a marriage or
- 20 civil partnership with the child's mother,
- 21 is the legitimate child of the child's parents.
- 22 (7) Nothing in the provisions of section 18(1) or sections 20 to 32, read with
- 23 this section —
- 24 (a) affects the succession to any dignity or title of honour or renders
- 25 any person capable of succeeding to or transmitting a right to
- 26 succeed to any such dignity or title; or
- 27 (b) affects the devolution of any property limited (expressly or not) to
- 28 devolve (as nearly as the law permits) along with any dignity or
- 29 title of honour.

30 *References to parties to marriage or civil partnership*

31 **34 Meaning of references to parties to a marriage**

32 P2008/22/49 and drafting

- 33 (1) The references in sections 20 to 32 to the parties to a marriage at any time
- 34 there referred to —
- 35 (a) are to the parties to a marriage subsisting at that time, unless a
- 36 separation order was then in force; but
- 37 (b) include the parties to a void marriage if either or both of them
- 38 reasonably believed at that time that the marriage was valid; and
- 39 for the purposes of those sections it is to be presumed, unless the

contrary is shown, that one of them reasonably believed at that time that the marriage was valid.

- (2) In subsection (1)(a), “separation order” means —
- (a) a separation order under section 17 of the *Matrimonial Proceedings Act 2003*; or
 - (b) a legal separation obtained in a territory outside the Island and recognised in the Island.

35 Meaning of references to parties to a civil partnership

P2008/22/50 and drafting

- (1) The references in sections 20 to 32 to the parties to a civil partnership at any time there referred to —
- (a) are to the parties to a civil partnership subsisting at that time, unless a separation order was then in force; but
 - (b) include the parties to a void civil partnership if either or both of them reasonably believed at that time that the civil partnership was valid; and for the purposes of those sections it is to be presumed, unless the contrary is shown, that one of them reasonably believed at that time that the civil partnership was valid.
- (2) In subsection (1)(a), “separation order” means —
- (a) a separation order under section 35(1)(d) of the *Civil Partnership Act 2011*; or
 - (b) a legal separation obtained in a territory outside the Island and recognised in the Island.

Further provision about registration by virtue of section 24, 25 or 31

36 Meaning of “relevant register of births”

P2008/22/51 and drafting

For the purposes of this Part, a “relevant register of births”, in relation to a birth, is a register of live-births or still-births kept under the *Civil Registration Act 1984*.

37 Late election by mother with consent of Registrar General

P2008/22/52 and drafting

- (1) The requirement under section 24(1), 25(1) or (2) or 31(1) or (2) as to the making of an election (which requires an election to be made either on or before the day on which the child was born or within the period of 42 days from that day) is nevertheless to be treated as satisfied if the required election is made after the end of that period but with the consent of the Registrar General under subsection (2).

- 1 (2) The Registrar General may at any time consent to the making of an
2 election after the end of the period mentioned in subsection (1) if, on an
3 application made in accordance with such requirements as the Registrar
4 may specify, the Registrar is satisfied that there is a compelling reason
5 for giving consent to the making of such an election.

6 *Interpretation of references to father etc. where woman is other parent*

7 **38 Interpretation of references to father etc.**

8 P2008/22/53 and drafting

- 9 (1) Subsections (2) and (3) have effect, subject to subsections (4) to (6), for the
10 interpretation of any enactment, deed or any other instrument or
11 document (whenever passed or made).
- 12 (2) Any reference (however expressed) to the father of a child who has a
13 parent by virtue of section 27 or 28 is to be read as a reference to the
14 woman who is a parent of the child by virtue of that section.
- 15 (3) Any reference (however expressed) to evidence of paternity is, in relation
16 to a woman who is a parent by virtue of section 27 or 28, to be read as a
17 reference to evidence of parentage.
- 18 (4) This section does not affect the interpretation of the enactments specified
19 in subsection (5) (which make express provision for the case where a
20 child has a parent by virtue of section 27 or 28).
- 21 (5) Those enactments are —
- 22 (a) the *Civil Registration Act 1984*;
- 23 (b) the *Legitimacy Act 1985*;
- 24 (c) the *Congenital Disabilities (Civil Liability) Act 1986*; and
- 25 (d) Part 1 of the *Children and Young Persons Act 2001*.
- 26 (6) This section does not affect the interpretation of provisions of enactments
27 amended by regulations made under section 51(1).

28 *Parental orders*

29 **39 Parental orders: two applicants**

30 P2008/22/54 and drafting

- 31 (1) On an application made by two people (“the applicants”), the High
32 Court may make an order providing for a child to be treated in law as the
33 child of the applicants if —
- 34 (a) the child has been carried by a woman who is not one of the
35 applicants, as a result of the placing in her of an embryo or sperm
36 and eggs or her artificial insemination;

- 1 (b) the gametes of at least one of the applicants were used to bring
2 about the creation of the embryo; and
- 3 (c) the conditions in subsections (2) to (9) are satisfied.
- 4 (2) The applicants must be —
- 5 (a) married to each other;
- 6 (b) civil partners of each other; or
- 7 (c) two persons who are living as partners in an enduring family
8 relationship and are not within prohibited degrees of relationship
9 in relation to each other.
- 10 (3) Except in a case falling within subsection (11), the applicants must apply
11 for the order during the period of 6 months beginning with the day on
12 which the child is born.
- 13 (4) At the time of the application and the making of the order —
- 14 (a) the child's home must be with the applicants; and
- 15 (b) either or both of the applicants must be domiciled in the Island.
- 16 (5) At the time of the making of the order both the applicants must have
17 attained the age of 18.
- 18 (6) The Court must be satisfied that both —
- 19 (a) the woman who carried the child; and
- 20 (b) any other person who is a parent of the child but is not one of the
21 applicants (including any man who is the father by virtue of
22 section 20 or 21 or any woman who is a parent by virtue of section
23 27 or 28),
- 24 have freely, and with full understanding of what is involved, agreed
25 unconditionally to the making of the order.
- 26 (7) Subsection (6) does not require the agreement of a person who cannot be
27 found or is incapable of giving agreement; and the agreement of the
28 woman who carried the child is ineffective for the purpose of that
29 subsection if given by her less than 6 weeks after the child's birth.
- 30 (8) The Court must be satisfied that no money or other benefit (other than
31 for expenses reasonably incurred) has been given or received by either of
32 the applicants for or in consideration of —
- 33 (a) the making of the order;
- 34 (b) any agreement required by subsection (6);
- 35 (c) the handing over of the child to the applicants; or
- 36 (d) the making of arrangements with a view to the making of the
37 order,
- 38 unless authorised by the Court.

- 1 (9) An order relating to the child must not previously have been made
2 under this section or section 40, unless the order has been quashed or an
3 appeal against the order has been allowed.
- 4 (10) Subsection (1)(a) applies whether the woman was in the Island or
5 elsewhere at the time of the placing in her of the embryo or the sperm
6 and eggs or her artificial insemination.
- 7 (11) Subject to subsection (12), an application which —
8 (a) relates to a child born before the coming into operation of this
9 section; and
10 (b) is made by two persons who, throughout the period applicable
11 under section 89(2) of the *Children and Young Persons Act 2001*,
12 were not eligible to apply for an order under that section in
13 relation to the child as husband and wife,
14 may be made within the period of 12 months beginning with the day on
15 which this section comes into operation.
- 16 (12) The Court may consider applications made outside the period specified
17 in subsection (11) if the Court considers it would be reasonable in the
18 circumstances to do so.

19 **40 Parental orders: one applicant**

20 P2008/22/54A and drafting

- 21 (1) On an application made by one person ("the applicant"), the High Court
22 may make an order providing for a child to be treated in law as the child
23 of the applicant if —
24 (a) the child has been carried by a woman who is not the applicant, as
25 a result of the placing in her of an embryo or sperm and eggs or
26 her artificial insemination;
27 (b) the gametes of the applicant were used to bring about the creation
28 of the embryo; and
29 (c) the conditions in subsections (2) to (8) are satisfied.
- 30 (2) Except in a case falling within subsection (11), the applicant must apply
31 for the order within the period of 6 months beginning with the day on
32 which the child is born.
- 33 (3) At the time of the application and the making of the order —
34 (a) the child's home must be with the applicant; and
35 (b) the applicant must be domiciled in the Island.
- 36 (4) At the time of the making of the order the applicant must have attained
37 the age of 18.
- 38 (5) The Court must be satisfied that both —
39 (a) the woman who carried the child; and

(b) any other person who is a parent of the child but is not the applicant (including any man who is the father by virtue of section 20 or 21 or any woman who is a parent by virtue of section 27 or 28),

have freely, and with full understanding of what is involved, agreed unconditionally to the making of the order.

(6) Subsection (5) does not require the agreement of a person who cannot be found or is incapable of giving agreement; and the agreement of the woman who carried the child is ineffective for the purpose of that subsection if given by her less than 6 weeks after the child's birth.

(7) The Court must be satisfied that no money or other benefit (other than for expenses reasonably incurred) has been given or received by the applicant for or in consideration of —

(a) the making of the order;

(b) any agreement required by subsection (5);

(c) the handing over of the child to the applicant; or

(d) the making of arrangements with a view to the making of the order,

unless authorised by the Court.

(8) An order relating to the child must not previously have been made under section 39 or this section, unless the order has been quashed or an appeal against the order has been allowed.

(9) Subsection (1)(a) applies whether the woman was in the Island or elsewhere at the time of the placing in her of the embryo or the sperm and eggs or her artificial insemination.

(10) An application which relates to a child born before the coming into operation of this section may be made within the period of 12 months beginning with the day on which this section comes into operation.

(11) The Court may consider applications made outside the period specified in subsection (10) if the Court considers it would be reasonable in the circumstances to do so.

41 Parental orders: supplementary provision

P2008/22/55 and drafting

(1) The Department may by regulations provide —

(a) for any provision of the *Adoption Act 2021* to have effect, with such modifications (if any) as may be specified in the regulations, in relation to orders under section 39 or 40, and applications for such orders, as it has effect in relation to adoption, and applications for adoption orders; and

1 (b) for references in any enactment to adoption, an adopted child or
 2 an adoptive relationship to be read (respectively) as references to
 3 the effect of an order under section 39 or 40, a child to whom such
 4 an order applies and a relationship arising by virtue of the
 5 enactments about adoption, as applied by the regulations, and for
 6 similar expressions in connection with adoption to be read
 7 accordingly.

8 Tynwald procedure – approval required.

9 (2) The regulations may include such incidental or supplemental provision
 10 as appears to the Department to be necessary or desirable in consequence
 11 of any provision made by virtue of subsection (1)(a) or (b).

12 **42 Parental orders: reciprocal effect of orders**

13 2001/20/103 and drafting

14 (1) The Council of Ministers may by order provide that prescribed orders
 15 which –

16 (a) are made by a court in any part of the United Kingdom or any of
 17 the Channel Islands; and

18 (b) appear to the Council of Ministers to correspond in their effect to
 19 orders which may be made under any provision of this Part,

20 shall have effect in prescribed circumstances, for prescribed purposes of
 21 this Part, as if they were orders of a prescribed kind made under this
 22 Part.

23 Tynwald procedure – approval required.

24 (2) An order under this section may modify any provision of this Part in its
 25 application by virtue of that order in relation to an order made by a court
 26 outside the Island.

27 (3) In this section, “prescribed” means prescribed by an order under this
 28 section.

29 **PART 4 – SURROGACY ARRANGEMENTS**

30 **43 Part 4 interpretation**

31 (1) In this Part –

32 “**surrogacy arrangement**” shall be construed in accordance with subsection (2);

33 “**surrogate mother**” means a woman who carries a child in pursuance of an
 34 arrangement –

35 (a) made before she began to carry the child; and

(b) made with a view to any child carried in pursuance of it being handed over to, and parental responsibility being met (so far as practicable) by, another person or other persons.

(2) For the purposes of this Part —

(a) if a woman were to carry a child in pursuance of an arrangement and thereby became a surrogate mother, the arrangement is a surrogacy arrangement;

(b) in determining whether an arrangement is made with such a view as is mentioned in paragraph (b) of the definition of “**surrogate mother**”, regard may be had to the circumstances as a whole (and, in particular, where there is a promise or understanding that any payment will or may be made to the woman or for her benefit in respect of the carrying of the child in pursuance of the arrangement, to that promise or understanding);

(c) an arrangement may be regarded as made with such a view although it is subject to conditions regarding the handing over of the child;

(d) a woman who carries a child is to be treated for the purposes of the definition of “**surrogate mother**” as beginning to carry it at the time of the insemination or of the placing in her of an embryo, of an egg in the process of fertilisation or of sperm and eggs, as the case may be, that results in her carrying the child.

(3) Subject to section 45(8), for the purposes of this Part a person does an act on a commercial basis if —

(a) any payment is at any time received by the person or another in respect of it; or

(b) the person does it with a view to any payment being received by the person or another in respect of making, or negotiating or facilitating the making of, any surrogacy arrangement.

In this subsection “payment” does not include payment to or for the benefit of a surrogate mother or prospective surrogate mother.

(4) Sections 45 to 47 apply to arrangements whether or not they are lawful.

44 Surrogacy arrangements unenforceable

2001/20/90; P1985/49/1A; P1990/37/36

No surrogacy arrangement is enforceable by or against any of the persons making it.

45 Negotiating surrogacy arrangements

2001/20/91; P1985/49/2(1) to (4) and drafting

(1) Any person who on a commercial basis does any of the following acts —

- 1 (a) initiates or takes part in any negotiations with a view to the
2 making of a surrogacy arrangement;
- 3 (b) offers or agrees to negotiate the making of a surrogacy
4 arrangement; or
- 5 (c) compiles any information with a view to its use in making, or
6 negotiating the making of, surrogacy arrangements,
7 is guilty of an offence.
- 8 (2) Any person who on a commercial basis knowingly causes another to do
9 any of the acts specified in subsection (1) is guilty of an offence.
- 10 (3) A person guilty of an offence under subsection (1) or (2) is liable on
11 summary conviction to custody for a term not exceeding 6 months or to a
12 fine not exceeding level 5 on the standard scale, or to both.
- 13 (4) It is not a contravention of subsection (1) or (2) —
- 14 (a) for a woman, with a view to becoming a surrogate mother herself,
15 to do any act mentioned in subsection (1) or to cause such an act
16 to be done; or
- 17 (b) for any person, with a view to a surrogate mother carrying a child
18 for the person, to do such an act or to cause such an act to be
19 done.
- 20 (5) A non-profit making body does not contravene subsection (1) merely
21 because —
- 22 (a) the body does an act falling within subsection (1)(a) or (c) in
23 respect of which any reasonable payment is at any time received
24 by it or another; or
- 25 (b) it does an act falling within subsection (1)(a) or (c) with a view to
26 any reasonable payment being received by it or another in respect
27 of facilitating the making of any surrogacy arrangement.
- 28 (6) A person who knowingly causes a non-profit making body to do an act
29 falling within subsection (1)(a) or (c) does not contravene subsection (1)
30 merely because —
- 31 (a) any reasonable payment is at any time received by the body or
32 another in respect of the body doing the act; or
- 33 (b) the body does the act with a view to any reasonable payment
34 being received by it or another person in respect of the body
35 facilitating the making of any surrogacy arrangement.
- 36 (7) Any reference in subsection (5) or (6) to a reasonable payment in respect
37 of the doing of an act by a non-profit making body is a reference to a
38 payment not exceeding the body's costs reasonably attributable to the
39 doing of the act.
- 40 (8) In proceedings against a person for an offence under subsection (1) or (2),
41 the person is not to be treated as doing an act on a commercial basis by

1 reason of any payment received by another in respect of the act if it is
2 proved that —

- 3 (a) in a case where the payment was received before the person did
4 the act, the person did not do the act knowing or having
5 reasonable cause to suspect that any payment had been received
6 in respect of the act; and
7 (b) in any other case, the person did not do the act with a view to any
8 payment being received in respect of it.

9 **46 Bodies negotiating surrogacy arrangements**

10 2001/20/92; P1985/49/2(5) to (9) and drafting

11 (1) Where —

- 12 (a) a person acting on behalf of a body of persons takes part in
13 negotiating or facilitating the making of a surrogacy arrangement
14 in the Island; and
15 (b) negotiating or facilitating the making of surrogacy arrangements
16 is an activity of the body; and
17 (c) the body at any time receives any payment made by or on behalf
18 of —
19 (i) a woman who carries a child in pursuance of the surrogacy
20 arrangement referred to in paragraph (a);
21 (ii) the person or persons for whom she carries it; or
22 (iii) any person connected with the woman or with that person
23 or those persons,

24 the body is guilty of an offence and liable on summary conviction to a
25 fine not exceeding level 5 on the standard scale.

26 For the purposes of this subsection a payment received by a person
27 connected with a body is to be treated as received by the body.

28 (2) A non-profit making body is not guilty of an offence under subsection
29 (1), in respect of the receipt of any payment described in that subsection,
30 merely because a person acting on behalf of the body takes part in
31 facilitating the making of a surrogacy arrangement.

32 (3) In proceedings against a body for an offence under subsection (1) it is a
33 defence to prove that the payment concerned was not made in respect of
34 the arrangement referred to in subsection (1)(a).

35 (4) Where —

- 36 (a) negotiating or facilitating the making of surrogacy arrangements
37 is an activity of a body of persons; and
38 (b) either —
39 (i) the making of the arrangements is negotiated or facilitated
40 on a commercial basis; or

- 1 (ii) payments are received (or treated for the purposes of
2 subsection (1) as received) by the body in contravention of
3 subsection (1) in the case of the arrangements,
4
5 any person who takes part in the management or control of the body in
6 question, or of that activity, is guilty of an offence and liable on summary
7 conviction to custody for a term not exceeding 6 months or to a fine not
8 exceeding level 5 on the standard scale, or to both.
- 9 (5) A person is not guilty of an offence under subsection (1) if –
10 (a) the body of persons referred to in that subsection is a non-profit
11 making body; and
12 (b) the only activity of that body which falls within subsection (4) is
13 facilitating the making of surrogacy arrangements in the Island.
14 (6) In subsection (5)(b), “facilitating the making of surrogacy arrangements”
15 is to be construed in accordance with subsection (4).
16 (7) In proceedings against a person for an offence under subsection (4) it is a
17 defence to prove that the person neither knew nor had reasonable cause
18 to suspect that the activity referred to in subsection (4) was an activity of
19 the body concerned; and for the purposes of such proceedings any
20 arrangement falling within subsection (4)(b) shall be disregarded if it is
21 proved that the payment concerned was not made in respect of the
22 arrangement.
23 (8) In any proceedings for an offence under this section, proof of things done
24 or of words written, spoken or published (whether or not in the presence
25 of any party to the proceedings) –
26 (a) by any person taking part in the management or control of a body
27 of persons or of any of the activities of the body; or
28 (b) by any person doing any of the acts mentioned in section 45(1)(a)
29 to (c),
shall be admissible as evidence of the activities of the body.

30 **47 Advertisements about surrogacy**

31 2001/20/93; P1985/49/3 and drafting

- 32 (1) This section applies to any advertisement containing an indication
33 (however expressed) –
34 (a) that any person is or may be willing to enter into a surrogacy
35 arrangement or to negotiate or facilitate the making of a surrogacy
36 arrangement; or
37 (b) that any person is looking for a woman willing to become a
38 surrogate mother or for persons wanting a woman to carry a child
39 as a surrogate mother.

- 1 (2) This section does not apply to any advertisement placed by, or on behalf
2 of, a non-profit making body if the advertisement relates only to the
3 doing by the body of acts that would not contravene section 45(1) even if
4 done on a commercial basis (within the meaning of section 43(3)).
- 5 (3) Where a newspaper or periodical containing an advertisement to which
6 this section applies is published in the Island, any proprietor, editor or
7 publisher of the newspaper or periodical is guilty of an offence.
- 8 (4) Where any advertisement to which this section applies is conveyed by
9 means of an electronic communications network so as to be seen or heard
10 in the Island, any person who in the Island causes it to be so conveyed
11 knowing it to contain such an indication is guilty of an offence.
- 12 (5) A person who publishes or causes to be published in the Island an
13 advertisement to which this section applies (not being an advertisement
14 contained in a newspaper or periodical or conveyed by means of an
15 electronic communications network) is guilty of an offence.
- 16 (6) A person who distributes or causes to be distributed in the Island an
17 advertisement to which this section applies (not being an advertisement
18 contained in a newspaper or periodical published outside the Island or
19 an advertisement conveyed by means of an electronic communications
20 network) knowing it to contain such an indication as is mentioned in
21 subsection (1) is guilty of an offence.
- 22 (7) A person guilty of an offence under this section is liable on summary
23 conviction to a fine not exceeding level 5 on the standard scale.
- 24 (8) In this section “electronic communications network” has the same
25 meaning as in the *Communications Act 2021*.

26 **48 Implementation of UK legislation relating to surrogacy**

- 27 (1) The Department may by regulations make such provision as appears to it
28 to be necessary or expedient for the purposes of –
- 29 (a) giving effect, either wholly or partly, to a provision of UK
30 legislation relating to surrogacy; or
- 31 (b) dealing with matters arising out of or related to such provision.
- 32 Tynwald procedure – approval required.
- 33 (2) Without limiting subsection (1), regulations under that subsection
34 may –
- 35 (a) make provision by reference to (or by incorporation, by reference,
36 annexation or otherwise, of) a provision of UK legislation relating
37 to surrogacy, or of any class or description of such provisions;
- 38 (b) when making the provision described in paragraph (a), do so to
39 such extent and subject to such exceptions, adaptations and

- 1 modifications to the UK legislation as may be specified in the
2 regulations.
- 3 (3) The provision that may be made by regulations under subsection (1)
4 includes an amendment of any enactment other than the *Human Rights*
5 *Act 2001*, but does not include provision —
- 6 (a) imposing a penalty of custody for more than 10 years for a
7 criminal offence;
- 8 (b) imposing or increasing taxation; or
- 9 (c) taking effect from a date earlier than that of the making of the
10 regulations containing the provision.

11 PART 5 – CLOSING PROVISIONS

12 49 Amendment of enactments

13 Schedule 1 (amendment of enactments) has effect.

14 50 Transitional, repeal, and saving provisions relating to Part 3

15 P2008/22/57 and drafting

- 16 (1) Sections 18 to 33 have effect only in relation to children carried by
17 women as a result of the placing in them of embryos or of sperm and
18 eggs, or their artificial insemination (as the case may be), after the
19 commencement of those sections.
- 20 (2) Part 9 of the *Children and Young Persons Act 2001* is repealed subject to the
21 savings in subsections (3) and (5).
- 22 (3) Despite the repeal of Part 9 of the *Children and Young Persons Act 2001*,
23 sections 86 to 88 of that Act continue to have effect in relation to children
24 carried by women as a result of the placing in them of embryos or of
25 sperm and eggs, or their artificial insemination (as the case may be),
26 before the commencement of sections 18 to 33.
- 27 (4) The text of sections 86 to 88 of the *Children and Young Persons Act 2001* (as
28 saved by subsection (3)) is set out in Schedule 2.
- 29 (5) The repeal of Part 9 of the *Children and Young Persons Act 2001* does not
30 affect the validity of any order made under section 89 of that Act before
31 the coming into operation of subsection (2).

32 51 Power to make further consequential provision

- 33 (1) The Department may by regulations make —
- 34 (a) any supplementary, incidental or consequential provision;
- 35 (b) any transitory, transitional or saving provision,

- 1 which it considers necessary or expedient for the purposes of, in
2 consequence of or for giving full effect to any provision of this Act.
- 3 Tynwald procedure — approval required.
- 4 (2) Regulations under subsection (1) may modify, repeal or revoke any
5 provision of any enactment passed or made before or at the same time as
6 this Act.
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SCHEDULE 1

AMENDMENT OF ENACTMENTS

[Section 49]

1 Civil Registration Act 1984

- (1) The *Civil Registration Act 1984* is amended as follows.
- (2) In section 3 (particulars of births to be registered), after subsection (3) insert —
- “(3A) In the case of a child who has a parent by virtue of section 27 or 28 of the *Reproductive Rights Act 2024*, the reference in subsection (3)(a) to the father of the child is to be read as a reference to the woman who is a parent by virtue of that section.”.
- (3) In section 4 (information concerning birth to be given to registrar within 42 days), after subsection (3) insert —
- “(4) In the case of a child who has a parent by virtue of section 27 or 28 of the *Reproductive Rights Act 2024*, the references in subsection (1) to the father of the child are to be read as references to the woman who is a parent by virtue of that section.”.
- (4) In section 10(4) (giving of information to a person other than the registrar), after “section 12(1)(b),(c) or (d)” insert “or section 12(4)(b), (c) or (d)”.
- (5) In section 12 (registration of father of non-marital child) —
- (a) for the heading to the section substitute “Registration of father where parents not married or civil partners or of second female parent where parents not married or civil partners”;
- (b) after subsection (3) insert —
- “(4) Notwithstanding anything in the foregoing provisions of this Act, no woman shall as a parent of the child by virtue of section 28 of the *Reproductive Rights Act 2024* be required to give information concerning the birth of the child, and the registrar shall not enter in the register the name of any woman as a parent of the child by virtue of that section except —
- (a) at the joint request of the mother and the person stating herself to be the other parent of the child (in which case that person shall sign the register together with the mother); or
- (b) at the request of the mother on production of —
- (i) a declaration in the prescribed form made by the mother stating that the person to be registered (“the

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woman concerned”) is a parent of the child by virtue of section 28 of the *Reproductive Rights Act 2024*; and

(ii) a statutory declaration made by the woman concerned stating herself to be a parent of the child by virtue of section 28 of that Act; or

(c) at the request of the woman concerned on production of —

(i) a declaration in the prescribed form made by the woman concerned stating herself to be a parent of the child by virtue of section 28 of the *Reproductive Rights Act 2024*; and

(ii) a statutory declaration made by the mother stating that the woman concerned is a parent of the child by virtue of section 28 of that Act; or

(d) at the request of the mother or the woman concerned on production of —

(i) a copy of any agreement made between them under section 4A(1)(b) of the *Children and Young Persons Act 2001* in relation to the child; and

(ii) a declaration in the prescribed form by the person making the request stating that the agreement was made in compliance with section 4A(1)(b) of that Act and has not been brought to an end by an order of a court; or

(e) at the request of the mother or the woman concerned on production of —

(i) a certified copy of an order under section 4A(1)(c) of the *Children and Young Persons Act 2001* giving the woman concerned parental responsibility for the child; and

(ii) a declaration in the prescribed form by the person making the request stating that the order has not been brought to an end by an order of a court; or

(f) at the request of the mother or the woman concerned on production of —

(i) a certified copy of an order under paragraph 1 of Schedule 1 to the *Children and Young Persons Act 2001* which requires the woman concerned to make any financial provision for the child and which is not an order falling within paragraph 3(3) of that Schedule; and



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- (ii) a declaration in the prescribed form by the person making the request stating that the order has not been discharged by an order of a court.
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- (5) Where, in the case of a child who is not a marital child, a person stating herself to be a parent of the child by virtue of section 28 of the *Reproductive Rights Act 2024* makes a request to the registrar in accordance with any of paragraphs (c) to (f) of subsection (4) —
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- (a) she shall be treated as a qualified informant concerning the birth of the child for the purposes of this Act; and
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- (b) the giving of information concerning the birth of the child by that person and the signing of the register by her in the presence of the registrar shall act as a discharge of any duty of any other qualified informant under section 4.”.
- 14
- (6) After section 12 insert —
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- “12A Registration of father or second female parent by virtue of certain provisions of Reproductive Rights Act 2024**
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- (1) Notwithstanding anything in the foregoing provisions of this Act, the registrar shall not enter in the register —
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- (a) as the father of a child, the name of a man who is to be treated for that purpose as the father of the child by virtue of section 24(1) or 25(1) or (2) of the *Reproductive Rights Act 2024* (circumstances in which man to be treated as father of child for purposes of registration of birth where fertility treatment undertaken after his death); or
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- (b) as a parent of the child, the name of a woman who is to be treated for that purpose as a parent of the child by virtue of section 31(1) or (2) of that Act (circumstances in which woman to be treated as parent of child for purposes of registration of birth where fertility treatment undertaken after her death),
- 31 unless the condition in subsection (2) is satisfied.
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- (2) The condition in this subsection is satisfied if —
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- (a) the mother requests the registrar to make such an entry in the register and produces the relevant documents; or
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- (b) in the case of the death or inability of the mother, the relevant documents are produced by some other person who is a qualified informant.
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- (3) In this section “the relevant documents” means —
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- (a) the consent in writing and election mentioned in section 24(1), 25(1) or (2) or 31(1) or (2) (as the case requires) of the *Reproductive Rights Act 2024*;

- (b) a certificate of a registered medical practitioner as to the medical facts concerned; and
- (c) such other documentary evidence (if any) as the registrar considers appropriate.”.

(7) In section 13 (re-registration of birth of non-marital child) —

(a) for the heading to the section substitute “Re-registration where parents neither married nor civil partners”;

(b) in subsection (1) —

(i) after “as the father of the child” insert “(or as a parent of the child by virtue of section 27, 28 or 31(1) or (2) of the *Reproductive Rights Act 2024*)”; and

(ii) after paragraph (e) insert —

“(f) in the case of a man who is to be treated as the father of the child by virtue of section 24(1) or 25(1) or (2) of the *Reproductive Rights Act 2024*, if the condition in section 12A(2) is satisfied; or”;

(c) after subsection (2) insert —

“(2A) Where there has been registered under this Act the birth of a child who is not a marital child, but no person has been registered as a parent of the child by virtue of section 27, 28 or 31(1) or (2) of the *Reproductive Rights Act 2024* (or as the father of the child), the registrar shall re-register the birth so as to show a woman (“the woman concerned”) as a parent of the child by virtue of section 28 or 31(1) or (2) of that Act —

(a) at the joint request of the mother and the woman concerned; or

(b) at the request of the mother on production of —

(i) a declaration in the prescribed form made by the mother stating that the woman concerned is a parent of the child by virtue of section 28 of the *Reproductive Rights Act 2024*; and

(ii) a statutory declaration made by the woman concerned stating herself to be a parent of the child by virtue of section 28 of that Act; or

(c) at the request of the woman concerned on production of —

(i) a declaration in the prescribed form made by the woman concerned stating herself to be a parent of the child by virtue of section 28 of the *Reproductive Rights Act 2024*; and

(ii) a statutory declaration made by the mother stating that the woman concerned is a parent of the child by virtue of section 28 of that Act; or

- 1 (d) at the request of the mother or the woman concerned on
2 production of —
- 3 (i) a copy of an agreement made between them under
4 section 4A(1)(b) of the *Children and Young Persons*
5 *Act 2001* in relation to the child; and
- 6 (ii) a declaration in the prescribed form by the person
7 making the request stating that the agreement was
8 made in compliance with section 4A of that Act and
9 has not been brought to an end by an order of a
10 court; or
- 11 (e) at the request of the mother or the woman concerned on
12 production of —
- 13 (i) a certified copy of an order under section 4A of the
14 *Children and Young Persons Act 2001* giving the
15 woman concerned parental responsibility for the
16 child; and
- 17 (ii) a declaration in the prescribed form by the person
18 making the request stating that the order has not
19 been brought to an end by an order of a court; or
- 20 (f) at the request of the mother or the woman concerned on
21 production of —
- 22 (i) a certified copy of an order under paragraph 1 of
23 Schedule 1 to the *Children and Young Persons Act*
24 *2001* which requires the woman concerned to make
25 any financial provision for the child and which is
26 not an order falling within paragraph 3(3) of that
27 Schedule; and
- 28 (ii) a declaration in the prescribed form by the person
29 making the request stating that the order has not
30 been discharged by an order of a court; or
- 31 (g) in the case of a woman who is to be treated as a parent of
32 the child by virtue of section 31(1) or (2) of the *Reproductive*
33 *Rights Act 2024*, if the condition in section 12A(2) is
34 satisfied.”;
- 35 (d) in subsection (3), for paragraphs (b) to (c) substitute —
- 36 “(b) in the case of any of the following requests —
- 37 (i) a request under subsection (1)(a) or (b) or
38 subsection (2A)(a) or (b);
- 39 (ii) a request under subsection (1)(d) or (e) or
40 subsection (2A)(d), (e) or (f) made by the mother of
41 the child,
- 42 the mother shall also sign the register;

- 1 (c) in a case within subsection (1)(f) or (2A)(g), the mother or
- 2 (as the case may be) the qualified informant shall also sign
- 3 the register;
- 4 (d) in the case of a request made under subsection (1)(a), (c),
- 5 (d) or (e) by the person requesting to be registered as the
- 6 father of the child, that person shall also sign the register;
- 7 (e) in the case of a request made under subsection (2A)(a), (c),
- 8 (d), (e) or (f) by a woman requesting to be registered as a
- 9 parent of the child by virtue of section 28 of the
- 10 *Reproductive Rights Act 2024*, that woman shall also sign the
- 11 register.”.

12 (8) In section 16 (registration of name of child or alteration of name), after

13 subsection (1) insert —

14 “(1A) In the case of a child who has a parent by virtue of section 27 or 28

15 of the *Reproductive Rights Act 2024*, the reference in subsection

16 (1)(b) to the father of the child is to be read as a reference to the

17 woman who is a parent of the child by virtue of that section.”.

18 (9) In section 17 (re-registration of births of legitimated persons) —

- 19 (a) in subsection (2), in the proviso —
- 20 (i) in paragraph (a), after “legitimated person” insert “, or
- 21 herself to be a parent of the legitimated person by virtue of
- 22 section 28 of the *Reproductive Rights Act 2024*,”; and
- 23 (ii) in paragraph (b), after “the paternity of the legitimated
- 24 person” insert “(or, as the case may be, the parentage of the
- 25 legitimated person by virtue of section 28 of that Act),”;
- 26 (b) in subsection (4) —
- 27 (i) after “the marriage of his parents” insert “or on their
- 28 becoming civil partners of each other”; and
- 29 (ii) after “the date of the marriage” insert “or of the formation
- 30 of the civil partnership”.

31 (10) In section 44 (interpretation), for the definition of “marital child”

32 substitute —

33 ““marital child” has the same meaning as in section 5(2) of the *Children*

34 *and Young Persons Act 2001*.”.

35 **2 Legitimacy Act 1985 amended**

- 36 (1) The *Legitimacy Act 1985* is amended as follows.
- 37 (2) After section 2 (legitimation of parents’ subsequent marriage or civil
- 38 partnership insert —

39 “2A Legitimation in cases where section 28 of the *Reproductive*



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Rights Act 2024 applies

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Subject to the following provisions of this Act, where —

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(a) a person (“the child”) has a parent (“the female parent”) by virtue of section 28 of the *Reproductive Rights Act 2024* (treatment provided to woman who agrees that second woman to be parent);

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(c) the female parent and the child’s mother subsequently enter into a marriage or civil partnership; and

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(d) the female parent is at the date of the marriage or formation of the civil partnership domiciled in the Island,

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the marriage or civil partnership (as the case may be) shall render the child, if living, legitimate from the date of the marriage or formation of the civil partnership.”.

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(3) In section 3 (legitimation by extraneous law), renumber the existing provision as subsection (1) of the section and at the end insert —

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“(2) Subject to the following provisions of this Act, where —

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(a) a person (“the child”) has a parent (“the female parent”) by virtue of section 28 of the *Reproductive Rights Act 2024* (treatment provided to woman who agrees that second woman to be parent);

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(b) at the time of the child’s birth, the female parent and the child’s mother are not married to or civil partners of each other;

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(c) the female parent and the child’s mother subsequently enter into a marriage or civil partnership; and

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(d) the female parent is not at the time of the marriage or formation of the civil partnership domiciled in the Island but is domiciled in a country by the law of which the child became legitimated by virtue of the marriage or civil partnership,

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the child, if living, shall in the Island be recognised as having been so legitimated from the date of the marriage or formation of the civil partnership (as the case may be) notwithstanding that, at the time of the child’s birth, the female parent was domiciled in a country the law of which did not permit legitimation by subsequent marriage or civil partnership.”.

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(4) In section 11 (interpretation), in the definition of “legitimated person”, in paragraph (a), after “section 2” insert “, 2A”.

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1 **3 Congenital Disabilities (Civil Liability) Act 1986 amended**

- 2 (1) The *Congenital Disabilities (Civil Liability) Act 1986* is amended as follows.
- 3 (2) In section 1 (civil liability to child born disabled), after subsection (4)
- 4 insert —
- 5 “(4A) In the case of a child who has a parent by virtue of section 27 or 28
- 6 of the *Reproductive Rights Act 2024*, the reference in subsection (4)
- 7 to the child’s father includes a reference to the woman who is a
- 8 parent by virtue of that section.”.
- 9 (3) After section 1 (civil liability to child born disabled) insert —

10 **“1A Extension of section 1 to cover infertility treatments**

11 P1976/28/1A

- 12 (1) In any case where —
- 13 (a) a child carried by a woman as the result of the placing in
- 14 her of an embryo or of sperm and eggs or her artificial
- 15 insemination is born disabled;
- 16 (b) the disability results from an act or omission in the course
- 17 of the selection, or the keeping or use outside the body, of
- 18 the embryo carried by her or of the gametes used to bring
- 19 about the creation of the embryo; and
- 20 (c) a person is under this section answerable to the child in
- 21 respect to the act or omission,
- 22 the child’s disabilities are to be regarded as damage resulting
- 23 from the wrongful act of that person and actionable accordingly at
- 24 the suit of the child.
- 25 (2) Subject to subsection (3) and the applied provisions of section 1, a
- 26 person (here referred to as “the defendant”) is answerable to the
- 27 child if the defendant was liable in tort to one or both of the
- 28 parents (here referred to as “the parent or parents concerned”) or
- 29 would, if sued in due time, have been so; and it is no answer that
- 30 there could not have been such liability because the parent or
- 31 parents concerned suffered no actionable injury, if there was a
- 32 breach of legal duty which, accompanied by injury, would have
- 33 given rise to the liability.
- 34 (3) The defendant is not under this section answerable to the child if
- 35 at the time the embryo, or the sperm and eggs, are placed in the
- 36 woman or the time of her insemination (as the case may be) either
- 37 or both of the parents knew the risk of their child being born
- 38 disabled (that is to say, the particular risk created by the act or
- 39 omission).
- 40 (4) Subsections (5) to (7) of section 1 apply for the purposes of this
- 41 section as they apply for the purposes of that but as if references



- 1 to the parent or the parent affected were references to the parent
2 or parents concerned.”.
- 3 (4) In section 3 (interpretation and other supplementary provisions) —
4 (a) at the end of subsection (2) insert on a new line —
5 “and references to embryos shall be construed in accordance with
6 section 3 of the *Reproductive Rights Act 2024*.”;
7 (b) in subsection (3), after “section 1” insert “,1A”; and
8 (c) in subsection (4), for “either” substitute “any”.

9 **4 Children and Young Persons Act 2001**

- 10 (1) The *Children and Young Persons Act 2001* is amended as follows.
- 11 (2) In section 3 (parental responsibility for children) —
12 (a) after subsection (1) insert —
13 “(1A) Where a child —
14 (a) has a parent by virtue of section 27 of the *Reproductive*
15 *Rights Act 2024*; or
16 (b) has a parent by virtue of section 28 of that Act and is a
17 marital child (within the meaning of section 5),
18 the child’s mother and the other parent shall each have parental
19 responsibility for the child.”;
20 (b) in subsection (2A), for “(registration of father of non-marital
21 child)” substitute “(registration of father where parents not
22 married or civil partners or of second female parent where
23 parents not married or civil partners)”;
24 (c) after subsection (2B) insert —
25 “(2C) Where a child has a parent by virtue of section 28 of the
26 *Reproductive Rights Act 2024* and is not a marital child (within the
27 meaning of section 5) —
28 (a) the mother shall have parental responsibility for the child;
29 and
30 (b) the other parent shall have parental responsibility for the
31 child if she has acquired it (and has not ceased to have it)
32 in accordance with the provisions of this Act.”.
- 33 (3) After section 4 insert —

34 **“4A Acquisition of parental responsibility by second female parent**

- 35 (1) Where a child has a parent by virtue of section 28 of the
36 *Reproductive Rights Act 2024* and is not a marital child (within the

- 1 meaning of section 5), that parent shall acquire parental
 2 responsibility for the child if –
- 3 (a) she becomes registered as a parent of the child under any
 4 of the enactments specified in subsection (2);
 - 5 (b) she and the child’s mother make an agreement providing
 6 for her to have parental responsibility for the child; or
 - 7 (c) the High Court, on her application, orders that she shall
 8 have parental responsibility for the child.
- 9 (2) The enactments referred to in subsection (1)(a) are paragraphs (a),
 10 (b) and (c) of section 12(4) and of section 13(2A) of the *Civil*
 11 *Registration Act 1984*.
- 12 (3) An agreement under subsection (1)(b) is also a “parental
 13 responsibility agreement”, and section 4(2) applies in relation to
 14 such an agreement as it applies in relation to parental
 15 responsibility agreements under section 4.
- 16 (4) A person who has acquired parental responsibility under
 17 subsection (1) shall cease to have that responsibility only if the
 18 Court so orders.
- 19 (5) The Court may make an order under subsection (4) on the
 20 application –
- 21 (a) of any person who has parental responsibility for the child;
 22 or
 - 23 (b) with the leave of the Court, of the child,
 24 subject, in the case of parental responsibility acquired under
 25 subsection (1)(c), to section 14(4).
- 26 (6) The Court may only grant leave under subsection (5)(b) if it is
 27 satisfied that the child has sufficient understanding to make the
 28 proposed application.”.
- 29 (4) In section 5 (meaning of “marital child”), after subsection (2)(c) insert –
- 30 “(ca) a person who has a parent by virtue of section 27 of the
 31 *Reproductive Rights Act 2024* (which relates to treatment
 32 provided to a woman who is at the time of treatment
 33 married to a woman or a party to a civil partnership with a
 34 woman or, in certain circumstances, a void marriage or
 35 civil partnership);
 - 36 (cb) a person who has a parent by virtue of section 28 of that
 37 Act (which relates to treatment provided to woman who
 38 agrees that second woman to be parent) who –
- 39 (i) is married to or the civil partner of the child’s
 40 mother at the time of the child’s birth; or



- 1 (ii) was married to or the civil partner of the child’s
 2 mother at any time during the period beginning
 3 with the time mentioned in section 28(b) of that Act
 4 and ending with the child’s birth;”
- 5 (5) In section 16 (effect of residence order), after subsection (1) insert —
 6 “(1A) Where the High Court makes a residence order in favour of a
 7 woman who is a parent of a child by virtue of section 28 of the
 8 *Reproductive Rights Act 2024* it shall, if that woman would not
 9 otherwise have parental responsibility for the child, also make an
 10 order under section 4A giving her that responsibility.”
- 11 (6) In section 102(1) (interpretation – general), in the definition of “family
 12 proceedings”, after paragraph (b)(iv) insert —
 13 | “(v) section 39 or 40 of the *Reproductive Rights Act 2024*;”.
- 14 (7) In Schedule 1 (financial provision for children), at the end of paragraph 3
 15 insert —
 16 | “(4) In the case of a child who has a parent by virtue of section 27 or 28
 17 of the *Reproductive Rights Act 2024*, any reference in sub-paragraph
 18 (1), (2) or (3) to the child’s father is a reference to the woman who
 19 is a parent of the child by virtue of that section.”

20 **5 Matrimonial Proceedings Act 2003 amended**

- 21 (1) The *Matrimonial Proceedings Act 2003* is amended as follows.
- 22 (2) In section 138(1) (interpretation: general), in the definition of “family
 23 proceedings” —
 24 (a) in paragraph (b)(ii) omit “or section 89 of the *Children and Young*
 25 *Persons Act 2001*”; and
 26 (b) after paragraph (b)(iii) insert —
 27 | “(iv) section 39 or 40 of the *Reproductive Rights Act 2024*;”.
- 28

SCHEDULE 2

THE TEXT OF SECTIONS 86 TO 88 OF THE CHILDREN AND YOUNG PERSONS
ACT 2001 (AS SAVED)

[Section 50(4)]

86 Meaning of “mother”

[P1990/37/27]

- (1) The woman who is carrying or has carried a child as a result of the placing in her of an embryo or of sperm and eggs, and no other woman, is to be treated as the mother of the child.
- (2) Subsection (1) does not apply to any child to the extent that the child is treated by virtue of adoption as not being the child of any person other than the adopter or adopters.
- (3) For the purposes of this section it is immaterial where the woman was at the time of the placing in her of the embryo or the sperm and eggs.

87 Meaning of “father”

[P1990/37/28]

- (1) This section applies in the case of a child who is being or has been carried by a woman as the result of the placing in her of an embryo or of sperm and eggs or her artificial insemination.
- (2) If —
 - (a) at the time of the placing in her of the embryo or the sperm and eggs or of her insemination, the woman was a party to a marriage or in a civil partnership with a man, and
 - (b) the creation of the embryo carried by her was not brought about with the sperm of her husband or her civil partner,then, subject to subsection (5), her husband or her civil partner shall be treated as the father of the child unless it is shown that he did not consent to the placing in her of the embryo or the sperm and eggs or to her insemination (as the case may be).
- (3) If no man is treated, by virtue of subsection (2), as the father of the child but —
 - (a) the embryo or the sperm and eggs were placed in the woman, or she was artificially inseminated, in the course of fertility services provided for her and a man together, and
 - (b) the creation of the embryo carried by her was not brought about with the sperm of that man,then, subject to subsection (5), that man shall be treated as the father of the child.

- 1 (4) Where a person is treated as the father of the child by virtue of
2 subsection (2) or (3), no other person is to be treated as the father of the
3 child.
- 4 (5) Subsections (2) and (3) do not apply –
5 (a) to any child who, by virtue of the rules of common law, is treated
6 as the legitimate child of the parties to a marriage, or
7 (b) to any child to the extent that the child is treated by virtue of
8 adoption as not being the child of any person other than the
9 adopter or adopters.
- 10 (6) Where the sperm of a man, or any embryo the creation of which was
11 brought about with his sperm, was used after his death, he is not to be
12 treated as the father of the child.
- 13 (7) The reference in subsection (2) to the parties to a marriage at the time
14 there referred to –
15 (a) is to the parties to a marriage subsisting at that time, unless a
16 judicial separation was then in force, but
17 (b) includes the parties to a void marriage if either or both of them
18 reasonably believed at the time that the marriage was valid;
19 and for the purposes of this subsection it shall be presumed, unless the
20 contrary is shown, that one of them reasonably believed at the time that
21 the marriage was valid.
- 22 (7A) The reference in subsection (2) to the woman being in a civil partnership
23 with a man at the time there referred to –
24 (a) is to the man and the woman being in a civil partnership
25 subsisting at that time, unless a judicial separation was then in
26 force, but
27 (b) includes the parties to a void civil partnership between the man
28 and the woman if either or both of them reasonably believed at
29 the time that the civil partnership was valid,
30 and for the purposes of this subsection it shall be presumed, unless the
31 contrary is shown, that one of them reasonably believed at the time that
32 the civil partnership was valid.
- 33 (8) For the purposes of this section it is immaterial where the woman was at
34 the time of the placing in her of the embryo or the sperm and eggs or her
35 artificial insemination.
- 36 (9) In subsection (7)(a) “judicial separation” includes a legal separation
37 obtained in a country outside the British Islands and recognised in the
38 Island.

88 Effect of sections 86 and 87

[P1990/37/29]

- (1) Where by virtue of section 86 or 87 a person is to be treated as the mother or father of a child, that person is to be treated in law as the mother or, as the case may be, the father of the child for all purposes.
- (2) Where by virtue of section 86 or 87 a person is not to be treated as the mother or father of a child, that person is to be treated in law as not being the mother or, as the case may be, the father of the child for any purpose.
- (3) Where subsection (1) or (2) has effect, references to any relationship between 2 people in any statutory provision, deed or other instrument or document (whenever made) are to be read accordingly.
- (4) Nothing in section 86(1) or 87(2) to (4), read with this section, affects —
 - (a) the succession to any dignity or title of honour or renders any person capable of succeeding to or transmitting a right to succeed to any such dignity or title, or
 - (b) the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any dignity or title of honour.
- (5) Sections 86 and 87 and this section have effect only in relation to children carried by women as a result of the placing in them of embryos or of sperm or eggs, or of their artificial insemination (as the case may be), after the commencement of this section.

IN THE COUNCIL

REPRODUCTIVE RIGHTS BILL 2024

A **BILL** to make certain new provision in relation to fertilisation, embryology and surrogacy; to make new provision about the persons who in certain circumstances are to be treated as the parents of a child; to amend the Civil Registration Act 1984 consequentially in relation to registering births; and for connected purposes.

Introduced pursuant to leave granted
by the Legislative Council under
Standing Order 4.8 on 4th April 2023

MISS TANYA AUGUST-
HANSON MLC

25 JUNE 2024