



Australian Capital Territory

Substitute Parent Agreements Act 1994 No 69

Republication No 2

Republication date: 12 March 2002

Last amendment made by Act 2000 No 51

Amendments incorporated to 17 November 2000

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Substitute Parent Agreements Act 1994* as in force on 12 March 2002. It includes any amendment, repeal or expiry affecting the republished law to 17 November 2000 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
17 November 2000



Australian Capital Territory

Substitute Parent Agreements Act 1994

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17 November 2000



Australian Capital Territory

Substitute Parent Agreements Act 1994

An Act to restrict the making of substitute parent agreements (sometimes called 'surrogacy agreements'), and for related purposes

1 Short title

This Act may be cited as the *Substitute Parent Agreements Act 1994*.

3 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

commercial substitute parent agreement means a substitute parent agreement under which a person agrees to make or give to another person a payment or reward, other than for or on account for expenses connected with—

- (a) a pregnancy (including any attempt to become pregnant) that is the subject of the agreement; or
- (b) the birth or care of a child born as a result of that pregnancy.

substitute parent agreement means a contract, agreement, arrangement or understanding under which—

- (a) a person agrees to become, or to attempt to become, pregnant and that a child born as a result of the pregnancy is to be taken to be (whether by adoption, agreement or otherwise) the child of another person; or
- (b) a person who is pregnant agrees that a child born as a result of the pregnancy is to be taken to be (whether by adoption, agreement or otherwise) the child of another person.

4 Application of offence provisions

A person who does an act prohibited by this Act commits an offence against this Act if—

- (a) the act occurs in the ACT, irrespective of the whereabouts of the person at the time the act is done; or

- (b) at the time the act is done, the person is ordinarily resident in the ACT, irrespective of where the act occurs.

5 Commercial substitute parent agreements prohibited

A person shall not enter into a commercial substitute parent agreement.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

6 Procurement of substitute parent agreements

A person shall not procure another person to enter into a substitute parent agreement with a third person unless the firstmentioned person intends to be a party to the agreement.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

7 Advertising in relation to substitute parent agreements

A person shall not publish an advertisement, notice or document—

- (a) intended or likely to induce a person to enter into a substitute parent agreement; or
- (b) seeking or purporting to seek a person who is willing to enter into a substitute parent agreement; or
- (c) stating or implying that a person is willing to enter into a substitute parent agreement.

Maximum penalty:

- (a) if the offence relates to a commercial substitute parent agreement—50 penalty units, imprisonment for 6 months or both; or
- (b) in any other case—50 penalty units.

8 Facilitating pregnancy

A person shall not knowingly provide any professional or technical services to another person to facilitate a person who is, or intends to be, a party to a commercial substitute parent agreement becoming pregnant for the purpose of the agreement.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

9 Substitute parent agreements void

A substitute parent agreement is void.

10 Welfare and interests of child paramount

- (1) Despite section 9, in any action or proceeding in connection with a substitute parent agreement, the welfare and interests of the child born as a result of a pregnancy that was the subject of the agreement shall be regarded as the paramount consideration.
- (2) For subsection (1), an action or proceeding in connection with a substitute parent agreement does not include a proceeding on an application for a parentage order under the *Artificial Conception Act 1985*.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
num = numbered	sdiv = subdivision
No = number	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced

Endnotes

3 Legislation history

3 Legislation history

Substitute Parent Agreements Act 1994 No 69

notified 1 November 1994 (Gaz 1994 No S229)

s 1, s 2 commenced 1 November 1994 (s 2 (1))

remainder commenced 7 November 1994 (s 2 (2) and Gaz 1994 No S243)

as amended by

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)

s 1, s 2 commenced 27 November 1998 (s 2 (1))

sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Artificial Conception Amendment Act 2000 No 51 s 11

notified 28 September 2000 (Gaz 2000 No 39)

s 1, s 2 commenced 28 September 2000 (IA s 10B)

s 11 commenced 17 November 2000 (Gaz 2000 No S65)

4 Amendment history

Commencement

s 2 om R1 LA

Commercial substitute parent agreements prohibited

s 5 am 1998 No 54 sch

Procuration of substitute parent agreements

s 6 am 1998 No 54 sch

Advertising in relation to substitute parent agreements

s 7 am 1998 No 54 sch

Facilitating pregnancy

s 8 am 1998 No 54 sch

Welfare and interests of child paramount

s 10 am 2000 No 51 s 11

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 2000 No 51	15 December 2000

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

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