



TALKING TURKEY

**A LEGAL GUIDE FOR LESBIAN MOTHERS
AND SPERM DONORS IN NEW SOUTH WALES**

ICLC INNER CITY LEGAL CENTRE

What is Talking Turkey all about?

Talking Turkey is a legal guide for lesbian mothers and sperm donors in NSW. It outlines the legal rights and responsibilities of parties involved in donor insemination arrangements.

Who is Talking Turkey for?

Talking Turkey is for lesbians who have or intend to have children conceived by donor insemination. It is also for men who are sperm donors or who are considering becoming sperm donors. Lawyers and health workers who have gay and lesbian clients may also find this guide useful.

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Disclaimer: The information in this publication should be used as a guide only and should not be relied upon as legal advice. Many of the issues surrounding children conceived by donor insemination have not been fully tested by the law.

INTRODUCTION

The Inner City Legal Centre is regularly approached for legal advice by lesbians, their partners and prospective donors who are planning to have children through informal, or private, donor insemination arrangements, or through fertility clinics.

While artificial insemination is available to women through fertility clinics in NSW, not all fertility services provide access to lesbians or to 'single' women. It is likely that this is unlawful discrimination under the *Anti Discrimination Act 1977* (NSW). While no test cases have been run in NSW on this point as yet, denial of such access by fertility clinics in Victoria has been found by the High Court to be unlawful discrimination.

This publication is an attempt to answer some of the most commonly asked questions about the legal rights and responsibilities of the parties involved in such arrangements in NSW. The information in this publication should be used as a guide only and should not be relied upon as legal advice. This is because many of the issues surrounding arrangements of this kind have not yet been fully tested by the law. The law is evolving as it is called upon to deal with situations which were never contemplated by the law makers. It is therefore difficult to give a definitive answer to some of the questions raised, and often more questions will arise than can be addressed in this publication. A number of penalties are referred to in this publication. The private nature of these arrangements means that it is difficult, if not impossible, for them to be enforced. To date there have been no known prosecutions for any of these offences.

This guide is intended for people entering into donor insemination arrangements, and conceiving, in NSW. It does not deal with the legal position in other States. However, because much of the relevant legislation is Commonwealth legislation - such as the *Family Law Act 1975*, the *Child Support (Assessment) Act 1989* and the *Social Security Act 1991* - some of the information will be applicable in all States. People in other States should seek the advice of a solicitor.

This guide reflects the law as it presently stands. However the law may change in the future. If the current law were to change in the future, it is unlikely the new law would be retrospective (ie: make illegal something which was legal at the time it was done).

Finally, the *Definitions* section on page 3 explains some of the legal and other terms referred to in this publication. At the risk of stating the obvious, "donor insemination" refers to the process of artificial insemination. It does not include the situation where the parties have sexual intercourse but make a conscious decision that the man is to be regarded purely as a donor. The information in this publication only applies to artificial donor insemination arrangements.

Note to readers

While every effort has been made to ensure that the information in this guide is as accurate and up to date as possible, it is not a substitute for legal advice. The law is complex and readers are advised to seek specific legal advice in relation to their particular situation.

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DEFINITIONS

Child:

means a child born as a result of a donor insemination arrangement.

Contact:

this is a legal term which has replaced the term “access”. It refers to the time spent between the child and person(s) other than the people the child lives with, and the extent of that contact.

Co-parent:

the lesbian partner of the mother who shares the responsibilities of caring for the child.

Donor:

because the legal position is that a sperm donor is not the legal father of the child (see below), to avoid confusion “donor” is used in the publication. However it is recognised that there will be a range of relationships and levels of involvement between sperm donors and children born as a result of a donor insemination arrangement, and that some donors will be regarded by the parties as the father of the child.

Parenting orders:

are orders by the court which may deal with one or more of the following issues:

- who the child will live with;
- who else will spend time with the child and to what degree;
- other aspects of parental responsibility known as “specific issues” orders (see below).

Parenting orders can be made by consent between the parties, or imposed by the Family Court in situations where the parties can't agree.

Residence:

the legal term which has replaced the old term “custody” and refers to who the child lives with.

Specific issues orders:

orders made by the court about anything other than residence, contact or maintenance. They are orders which give or take away the responsibility for the long term or day to day “care, welfare and development” of the child, such as education, medical treatment, clothing and so on. Such orders can be made in the favour of one person or jointly with another person, or people.

PART ONE:

FREQUENTLY ASKED QUESTIONS ABOUT THE DONOR

Q. IS THE DONOR REGARDED AS THE LEGAL FATHER?

- A. If the mother is not married to or in a de facto relationship with the donor or any other man, the child is regarded at law as not having a father. This is because the *Status of Children Act 1996* NSW states that the donor is presumed not to be the father of the child. This is the case even if the donor is named as the father on the birth certificate or any other document. (However, see below for the implications of naming the donor on the birth certificate.) It is also the case whether or not the donor is known to the mother.

Q. WHAT ARE THE IMPLICATIONS OF NAMING THE DONOR ON THE BIRTH CERTIFICATE ?

- A. Some people may want to record the name of the donor on the birth certificate so that the child can later identify him. However, it should be noted that certain difficulties may be experienced by the mother, and the child and the donor in terms of their day to day lives as a result of putting the donor's name on the birth certificate. This is because under the *Status of Children Act* a person named on the birth certificate is presumed to be a parent and it may be necessary to provide explanations or evidence to rebut this presumption and establish that the person is a donor. There are, of course, other ways of ensuring that the child knows who he is.

Accessing family payments through Centrelink and applying for a child's passport are discussed below as examples of the effects of naming the donor as the father.

Child support

A sperm donor is not assessable as a "parent" for the purposes of child support under the *Child Support (Assessment) Act (B v J (1996))* and nor is he considered a "parent" for the purposes of child maintenance under the *Family Law Act 1975 (Re Patrick)*. Therefore, the donor has no legal liability to pay child support. This is the case even where the donor may be registered as the father on the child's birth certificate (*B v J*), although evidence may need to be provided to establish that the person named on the birth certificate is in fact a donor.

Centrelink payments

When a woman applies to Centrelink for a payment relating to a child, she would normally be required to demonstrate that she has taken reasonable steps to claim child support from the father named on the birth certificate.

Where the donor's name is on the birth certificate, the mother would have to establish to Centrelink that the child was conceived through donor insemination and that therefore she cannot legally pursue the donor for child support. Involvement by a Centrelink social worker may be required if the donor insemination was not done through a clinic. While the law is clear that the donor is not the legal father and not liable for child support, at present these laws, and Centrelink policy and practice, is/are being applied in a highly discretionary manner by Centrelink officers.

If Centrelink decides not to accept the evidence provided of a donor insemination arrangement and decides that the mother should take reasonable steps to pursue child support from the donor, she can appeal to an authorised review officer, and then to the Social Security Appeals Tribunal, if necessary. For advice about dealing with Centrelink and appealing Centrelink decisions, contact the Welfare Rights Centre (see *Contacts*).

Having to explain the above to Centrelink may mean admitting to an offence under the *Crimes Act 1900* (NSW), although the prospects of being prosecuted in this context are slim. It is also important to note that it is an offence under the *Social Security Act* to make a false or misleading statement in connection with applying for benefits.

Passports

According to the *Passport Act 2005* (Cth), in order for a child under 18 years who has never married to be issued a passport, written consent of all people with parental responsibility for the child or a Court order permitting the child to travel internationally is required. There is also provision for the Minister for Foreign Affairs to issue a passport if neither of these conditions are met in special circumstances.

As a donor is not a father and does not have parental responsibility for the child, his consent should not be required for the issue of a passport. However, if the donor is named on the birth certificate, the Department of Foreign Affairs and Trade (DFAT) will assume they require his consent. The mother can make an application for a waiver of his consent by completing a Form 9 '*Child Without Full Parental Consent*' and providing details of the circumstances of donor insemination. The application will be determined by an Approved Senior Officer.

If the donor is not named on the child's birth certificate, the mother has to complete a Form 8 '*Mother's Name Only On Child's Birth Certificate*'.

A decision of DFAT not to issue a passport is an administrative decision and can be appealed. The first appeal is to the Minister and must be done in writing and within 28 days of becoming aware of the decision. The Minister's decision can be appealed to the Administrative Appeals Tribunal. That appeal must also be done within 28 days from the date the Minister's decision is received.

Legal advice should be sought if DFAT refuses to issue a passport.

Possible breach of the Crimes Act
There is a view that if the person who registers the birth knows that the donor is not the legal father, the inclusion of his name on the birth certificate may breach the *Crimes Act 1900* (NSW) by "wilfully making false statements in respect of a birth". However there has never been a case involving this issue and the view is not universally held. The penalty for making a false statement is up to *6 months imprisonment or a fine of up to \$110*.

It is possible to amend details on a birth certificate by applying to the NSW Registry of Births, Deaths and Marriages.

Q. WHAT ARE THE IMPLICATIONS OF NOT NAMING THE DONOR ON THE BIRTH CERTIFICATE ?

- A.** Since the donor is deemed not to be the father there is no obligation on the part of the mother to name the donor when registering the birth.

Centrelink may require the mother to name the father in order for it to be satisfied that she has taken reasonable steps to obtain child support. Should this occur the mother will have to explain that the conception was as a result of a donor insemination arrangement and that there is no legal father (see the discussion on page 4 under '*Child support*' and '*Centrelink payments*').

Q. IS THE DONOR LIABLE FOR CHILD SUPPORT OR CHILD MAINTENANCE?

A. No.
See page 4 under *Child support* and *Centrelink payments*. However, if the donor has made a promise to the mother to financially support the child and then reneges on that promise, he may be forced by a court to fulfil that promise. (See the discussion on page 8 on *W v G* under '*Does the co-parent have any rights or responsibilities regarding the child?*' for how this might happen).

Q. CAN THE DONOR BE PREVENTED FROM FORMING A RELATIONSHIP WITH THE CHILD, OR HAVING CONTACT WITH THE CHILD?

A. Under the *Family Law Act 1975* any person who has a concern for the "care, welfare or development of the child" - and this could include the donor - can apply to the court for parenting orders. The mother cannot therefore prevent the donor from applying to the court for such orders.

Parenting orders can be made either by consent between the parties, or where agreement cannot be reached, by the court on the application of an interested party.

In making any decision regarding children, the paramount consideration for the court is "the best interests of the child". In determining what 'the best interests of the child' are, the court must consider a number of factors, including, but not limited to:

- the expressed wishes of the child, considering the child's age, maturity and any other factor that may have influenced the child;
- the child's relationship with each parent and with any other person;
- the current arrangements for the child and the effect a change would have on the child;

- the effect a separation from either parent, other children or any other person may have on the child;
- the capacity of each parent (or person) to provide for the child's needs, including emotional and intellectual;
- the child's maturity, sex and background, including contact with culture or traditions of indigenous people;
- the need to protect the child from physical or psychological harm;
- each parent's (or person's) attitude to the child and to the responsibilities of parenthood;
- any family violence involving a child or a member of the child's family;
- the court's preference to make an order that is least likely to result in further proceedings regarding the child; and
- any other fact or circumstance the court considers relevant.

The Family Court specifically considered the issue of contact by a donor in the case of *Re Patrick*. The court looked at:

- the nature of the donor's relationship with the child;
- the level of involvement with the child;
- the intentions of the parties as to any ongoing role the donor would have in the child's life;
- the impact and benefits of ongoing contact on both the child and the mother and co-parent; and
- the impact on the child of no contact with the donor/"father".

The court found the parties had intended for the donor to be significantly involved in the child's life and that ongoing contact was of benefit to the child. Contact was granted to the donor on a gradually increased basis from a few hours each alternate Sunday, to each alternate weekend when the child reached school age.

The case of *Re Patrick* highlights the importance of parties being clear at the outset about what ongoing role, if any, the donor will have in the child's life. Parties should seriously consider the need for a written agreement which deals with issues concerning the roles and expectations of the donor, particularly where little or no involvement is desired by the mother and co-parent. While such agreements are not legally enforceable, they can be useful as evidence of the parties' intentions in any future court action. Attached to this guide is an example of a "Donor - Mother Agreement". (See discussion opposite: '*What is the legal status of a written agreement between the Donor and the Mother and Co-parent?*' Would an agreement of this kind be legally enforceable?)

Q. DOES THE DONOR HAVE ANY RIGHTS REGARDING THE CHILD?

- A.** The fundamental focus of the *Family Law Act* is on the rights of the child, rather than the rights of parent(s) or other people. Therefore no person has automatic rights regarding the child.

Because the donor is not the legal father (*Status of Children Act*) the court will not automatically make orders for the child to have contact with him. However, he can apply to the Family Court for parenting orders as a person concerned with the "care, welfare or development of the child". (For discussion on this, see page 6: '*Can the donor be prevented from forming a relationship with the child, or having contact with the child?*')

Q. WHAT IS THE LEGAL STATUS OF A WRITTEN AGREEMENT BETWEEN THE DONOR AND THE MOTHER AND CO-PARENT?

- A.** Written agreements regarding the parties' rights and responsibilities in relation to the child are not legally enforceable in Australia (*Re Patrick*). They can, however, be useful as evidence of the parties' intentions in any future court action.

The Family Court in *Re Patrick* strongly recommended that parties entering into donor insemination arrangements enter into written agreements which set out the intentions of the parties.

The process of making such an agreement can in itself be a very useful one, as a means of assisting the parties to think about and articulate their needs and/or expectations of the arrangement. This can also help prevent disputes arising in the future.

At the end of this guide are examples of "Donor - Mother Agreements".

It is important to note that agreements of this kind are "tailor-made" to suit the particular circumstances of the parties involved. One person's agreement should therefore not be used as a 'pro forma' document for someone else. Specific legal advice is recommended to cover your particular situation.

PART TWO: FREQUENTLY ASKED QUESTIONS ABOUT THE CO-PARENT

Q. DOES THE CO-PARENT HAVE ANY RIGHTS OR RESPONSIBILITIES REGARDING THE CHILD?

- A. There are no automatic legal rights or responsibilities that apply to the relationship between the co-parent and the child. However, the case of *W v G (1996)* has shown that a co-parent may be ordered by the court to accept some responsibility for financially supporting the child (child maintenance). In that case the co-parent was ordered to fulfil a promise she had made to the mother to financially support the children, because she had encouraged the mother to believe that she could rely and act on that promise of support in becoming pregnant.

The Property (Relationships) Act 1984 now enables same sex de facto partners (ie: people who live together as a couple) to go to the District Court or NSW Supreme Court for orders about property division on the breakdown of a relationship. This can include claims for child maintenance as part of a property division where both parties have taken parental responsibility for the welfare of a child.

A co-parent can also gain legal recognition of her relationship with the child through the courts. She can apply to the Family Court for parenting orders regarding the child as a person “concerned with the care, welfare or development of the child”. This can be done in two situations:

- Where the mother and co-parent both agree that the co-parent’s relationship with the child should be legally recognised.

The *Family Law Act* enables joint parenting orders to be made by consent between the parties in favour of both the mother and the lesbian co-parent. This is the most effective way for the mother and co-parent to legally share the rights and responsibilities regarding the child. Independent legal advice should be obtained when making parenting orders by consent.

At the end of this Guide is an example of an ‘*Application for Consent Orders*’ which the mother and co-parent can file in the Family Court, should they wish to seek orders in which they legally share parental responsibility for the child. Once made, orders for parental responsibility confer joint authority on the mother and co-parent to make decisions concerning the day to day and long term care, welfare and development of the child, including such issues as schooling, religious instruction and medical treatment.

- Where there is a dispute between the mother and co-parent regarding the child.

In the event of a dispute between the mother and co-parent, the Family Court will resolve the dispute and make orders based on the “best interests of the child”. The court will take into account the factors discussed above. The co-parent may be in a stronger position if a joint parenting order has already been made. Both parties will be required to undergo counselling with a Family Court approved counsellor prior to a final determination of the dispute.

Q. CAN A CO-PARENT ADOPT HER PARTNER'S CHILD CONCEIVED THROUGH DONOR INSEMINATION?

- A.** Under the *Adoption of Children Act 1965* (NSW) a child becomes the child of the adoptive parent(s) and the legal relationship with the birth parent is severed permanently. At present, gay men and lesbians are not legally able to adopt as a couple, but may apply to adopt a child as a single person. If a co-parent were to adopt the child of her partner it would mean that the mother would no longer be considered the legal parent of the child. For this reason adoption is not usually considered to be a feasible option. It should be noted that privately arranged adoptions are illegal.

However, much of what the mother and co-parent may be wishing to achieve when they think about adoption - the legal sharing and recognition of rights and responsibilities regarding the child - may be achieved by obtaining parenting orders from the Family Court by consent. (See page 8 under *'Does the co-parent have any rights or responsibilities regarding the child?'*). Specific legal advice should be sought about this.

Q. CAN A MOTHER STATE IN HER WILL THAT THE CO-PARENT WILL CARE FOR THE CHILD IF SHE DIES?

- A.** A legal parent can nominate someone in their will to be the guardian of the child(ren) in the event of the parent's death (known as a 'testamentary guardian'). Guardianship of this nature becomes particularly important where there are no existing orders from the Family Court setting out who will be responsible for the care of the child.

The Family Court no longer makes orders appointing people guardians of children, but may make specific issues orders as well as parenting orders. For example if the mother dies, the Family Court may make orders granting residence to the co-parent and orders that she alone or with some other interested person share responsibility for the long term care, welfare and development of the child.

The mother's nomination of a testamentary guardian can be challenged in court by other interested people such as grandparents, or in some cases the donor. Although the mother's nomination may not be followed by the court, it is still recommended that provision be made in a will so that the court can assess the deceased's wishes. Any decision of the court will ultimately depend on the court's assessment of the child's best interests.

Any person with an interest in the "care, welfare or development of the child" - including a co-parent and the donor - can apply to the Family Court for parenting orders on the death of the mother. Any existing contact, residence or specific issues orders would be taken into account by the court, and the court would make such orders as it considers are in 'the best interests of the child'.

It should be noted that regardless of whether or not there is a will nominating a testamentary guardian, if the co-parent has had a significant involvement with the child and its development for several years, a court would be unlikely to discontinue this, as to do so would probably not be in the best interest of the child.

PART THREE:

OTHER FREQUENTLY ASKED QUESTIONS

Q. WHAT ARE THE INHERITANCE RIGHTS OF THE CHILD?

- A. Any person is free to dispose of her or his property (estate) as s/he sees fit. Therefore, the mother, co-parent, donor or the donor's partner can make provisions in their wills for the child.

If the mother dies intestate (without a will) the rules of intestacy will apply. These rules are set out in the *Wills, Probate and Administration Act 1898 NSW (WPAA)*. Amendments to the *WPAA* in 1999 mean that same sex de facto partners now automatically inherit all or part of the estate, depending on how much is in the estate. To qualify as de facto partners, the parties must have lived together as a couple for at least 2 years immediately prior to the partners death. Depending on the size of the estate, the (biological) child(ren) of the deceased may also inherit some of the estate.

If the co-parent dies without a will, a non-biological child will not inherit under the intestacy rules described above. It is therefore important for the co-parent to have a will.

A child born as a result of artificial insemination is not entitled to a share of the donor's estate under the intestacy rules because the donor is not legally the father of the child (*Status of Children Act*). A dispute may arise in cases where the donor's name is on the birth certificate and the child makes a claim against the estate, whether the donor had died with or without a will. Unless there is proof of an artificial insemination arrangement the court is likely to presume that the child is the legal child of the father. Such a dispute is more likely to arise when the child is an adult and the people who may have knowledge of the donor insemination arrangement may be deceased.

Any will can be contested under the *Family Provision Act 1982* (NSW) if it is considered that the will maker has failed to make proper provisions for relatives or dependants. Claims for a share of the estate can be made under the Act even where there is no will and proper provision has not been made. Under the *Family Provision Act* a child whose long-term welfare has been the responsibility of both the mother and the co-parent can seek part of the co-parent's estate in the event of her death.

A child may be also able to claim against the estates of the donor or donor's partner under the "other dependant's category" of the *Family Provision Act*, where provisions have not been made for the child. The child would need to establish that s/he was a member of the deceased's household and was wholly or partly dependent on the deceased at some time. This type of situation could arise where the donor and his partner agree to play a regular part in the life of a child conceived through a donor insemination arrangement. The usual limitation period to make a claim under the *Family Provisions Act 1982* (NSW) is 18 months from the death of the deceased.

Q. WILL THE CO-PARENT'S INCOME AFFECT THE MOTHER'S ELIGIBILITY FOR CENTRELINK PAYMENTS?

- A. No. Currently the *Social Security Act 1991* does not define lesbian and gay couples as "spouses" or recognise them as a de facto couple. Each member of the couple is therefore assessed separately as an individual and their partner's income and assets are not taken into account when eligibility for benefits is being assessed.

Q. CAN HEALTH INSURANCE BE OBTAINED AT THE REDUCED “FAMILY” RATE?

- A.** This depends on the particular health benefit fund. Most do offer the family rate to same sex couples. Those that refuse to do so can be pursued for discrimination.

The exclusion of a gay couple from the “concessional” or “family” rate was tested in NSW under the *Anti-Discrimination Act 1977*. In the case of *Hope and Brown v NIB Health Fund Limited (1995)* it was found that the insurance provider had discriminated against a gay couple and their child by refusing them the concessional family rate for health insurance.

Q. ARE INFORMAL DONOR INSEMINATION ARRANGEMENTS LEGAL?

- A.** In NSW there is no specific law against self insemination. However, some doubts still remain as to whether such arrangements may breach the *Human Tissue Act 1983* (NSW), which regulates the handling of human tissue. The *Human Tissue Act* in effect prevents sexually active gay men from donating sperm by requiring the donor to certify on a form that he has not had male-to-male sex for five years. This is because of concerns about the transmission of HIV. This requirement may therefore create problems for gay men who wish to donate sperm. The form is contained in the regulations to the *Human Tissue Act*, which can be amended. The regulations should therefore be checked for any amendments at the relevant time.

While the *Human Tissue Act* may apply to private arrangements, this issue has not been tested in the courts. To date, there have been no prosecutions and as such a prosecution seems unlikely. The penalty for signing a false or misleading statement regarding the donor’s suitability to donate sperm is \$5,500 and/or imprisonment for one year.

Q. CAN THE DONOR CHARGE A FEE FOR SUPPLYING SEMEN?

- A.** The *Human Tissue Act* prohibits “trade in human tissue” by anyone other than an authorised provider (such as a clinic). It is therefore illegal in NSW for the donor to charge for providing semen. The penalty for a donor who trades in semen in this manner is a maximum fine of \$4,400 and/or 6 months imprisonment. However, it is not illegal for the recipient to cover the cost of medical procedures and other expenses connected to the process of donating sperm.

Q. WHAT ARE THE RIGHTS AND RESPONSIBILITIES REGARDING SCREENING FOR HIV OR OTHER HEALTH RISKS?

- A.** The relevant medical procedures referred to above should include tests for various infections or diseases, as well as the donor having his sperm count and activity tested to ensure that he is fertile.

The viruses or diseases for which the donor must be tested are set out in the regulations to the *Human Tissue Act* (“the regulations”) and include HIV, Hepatitis B and C and Syphilis. While there is no absolute guarantee regarding the screening of “fresh” semen (as opposed to frozen/stored sperm provided by a clinic) for HIV, the following is the safest possible method to follow. The donor will need to have two HIV tests, three months apart and with no “risk activities” between them - such as unprotected penetrative sex or sharing of injecting drug equipment. If both HIV tests are negative the donor’s sperm will be as safe as possible. It is important for the donor to be tested twice because of the “window period” of HIV infection. This is the period when a person may be infected with HIV but the virus cannot be detected by an HIV test. Antibodies to HIV can be detected after three months of infection.

The ideal method of preventing transmission of HIV and other STDs is the method used by clinics, where semen is frozen and stored for six months while the donor is tested and retested to make sure they do not carry transmissible infections. While there is no guarantee that semen is completely safe, instances of HIV transmission due to informal donor insemination have been rare.

The *Contacts* section in this publication refers to services which provide comprehensive information (including written information) about appropriate and effective screening processes that should be followed when planning to self inseminate with donor sperm.

It is also important to discuss a broad range of health issues with a potential donor so that informed decisions can be made before proceeding with the particular donor. For example, it is advisable to obtain the donor's medical history, including diabetes, allergic disorders, mental illness, and inherited health conditions, such as haemophilia. It will also be useful to know if there is any family history of repeated miscarriages or twins and any family history of breast or cervical cancer which may be relevant in the future if the child is a girl.

The *Human Tissue Act* requires the person "obtaining or receiving" semen to first get a certificate from the donor attesting to his medical suitability. The certificate should be either in the form set out in the regulations or in a similar form. This should be discussed with a general practitioner when having the relevant tests. The regulations also require the person "obtaining or receiving" semen to keep the medical certificate for a minimum of 10 years.

When donor insemination is carried out in a clinical setting it is clear that the service provider is the "obtainer" of the semen. Where insemination takes place outside a clinical setting it is unclear whether the donor or the mother (or both) are the "obtainers" of the

semen. It would therefore be advisable for both the mother and donor to retain copies of the medical certificate. There are penalties of up to \$220 for failing to comply with these requirements. The obtaining of this certificate will also protect the donor from the prospect of being sued if the mother contracts a disease for which the donor should have been tested.

Under the *Human Tissue Act* there is a maximum penalty of \$5,500 and/or 1 year imprisonment if a person provides or signs a certificate knowing that it contains false or misleading information.

It is important to note that the purpose of the *Human Tissue Act* is to set standards for authorised providers of semen. People entering into private or informal arrangements take more risks (both health and legal) in doing so, as they do not have the same recourse to legal redress as people who use a clinic if things go wrong.

Q. IS THE ISSUE OF HOMOSEXUALITY TAKEN INTO ACCOUNT BY THE COURTS?

- A.** In making any decision regarding children, the paramount consideration for the court is "the best interests of the child". The sexuality of the parties may therefore be a factor that the Family Court will consider when making its decision about what is in the best interests of the child. While in the past the Court has refused to grant parenting orders to gay men or lesbians because of their sexuality, there have been recent cases where residence has been awarded to lesbian mothers and gay fathers. Ultimately, it will depend on the individual judge hearing the case, and all the circumstances of the particular case.

PART FOUR: EXAMPLES OF AGREEMENTS BETWEEN MOTHERS & DONORS

1. EXAMPLE OF AGREEMENT WITH DONOR WHERE DONOR HAS NO INVOLVEMENT WITH CHILD

THIS AGREEMENT IS MADE ON _____

BETWEEN _____ and _____ (“MOTHERS”)

AND _____ (“DONOR”)

The Mothers and Donor may also be referred to as the “Parties”.

The Parties to this Agreement acknowledge that:

- in all circumstances, the best interests of the child are the fundamental consideration.
- regardless of who is listed on the child’s birth certificate, the Donor is not a legal parent.
- the rights of all Parties to residence or contact is determined by Australian law in accordance with the best interests of the child.
- all Parties and other persons who have an interest in the care, welfare and development of the child may apply to the Family Court for orders to be made, regardless of whether or not they are legal parents.
- parts of the agreement relating to financial support may be legally binding. Most other parts of the agreement are not legally binding.

The purpose of the Agreement is to ensure the Parties have thoughtfully considered the issues contained in each clause of this Agreement and to further ensure that the Parties have a clear understanding of the other Parties’ expectations and intentions.

PRE-CONCEPTION CONSIDERATIONS

1. Conception

- a. The Parties acknowledge that *[insert name of intended biological mother]* is attempting to become pregnant through *[self-insemination/IVF/clinical insemination]* and give birth to a child.
- b. The Donor has agreed to provide his semen to the Mothers for the purpose of *[self-insemination/IVF/clinical insemination]*.
- c. The semen will be provided at a time and place as agreed between the Mothers and the Donor.
- d. The Donor is prepared to provide his semen for this purpose until the Mothers conceive or until *[insert date]*.
- e. The Donor will/will not be notified by the Mothers when and if *[insert name of intended biological mother]* successfully conceives.
- f. The Donor will/will not be notified by the Mothers when and if *[insert name of intended biological mother]* successfully gives birth to a child/children.
- g. The following people will be present at the birth of the child: *[insert who will be present]*.

PART FOUR: EXAMPLES OF AGREEMENTS BETWEEN MOTHERS & DONORS (continued)

2. Health

- a. The Donor agrees to fully disclose to the Mothers his medical history and knowledge of any medical condition common to his family members.
- b. The Donor agrees to undergo medical examinations and any physical or genetic tests as requested by the Mothers including: *[insert a list of tests the Donor is required to undertake]*.
- c. The Mothers agree to pay for any medical examinations or tests that the Donor undertakes at the request of the Mothers.
- d. If the Donor becomes aware of a medical condition that may be genetically attributable, the Donor has a duty to inform the Mothers of this medical condition.

POST-CONCEPTION CONSIDERATIONS

3. Identity

- a. The Donor's name will/will not appear on the child's birth certificate.
- b. The Donor's identity shall/shall not be made known to the child.
- c. The Donor shall/shall not seek out the identity of the child.
- d. If the child wishes to know the identity of the Donor at some time in the future, the Donor agrees that the Mothers may provide the child with the following information when the child reaches *[insert age]* years of age: *[insert what information will be made known to the child, eg: name, age, picture, address at time of agreement, current address if known, etc]*.
- e. The Parties are mindful that the child may want to know the Donor's identity. The child's request for information relating to the identity of the Donor will constitute a reason for reviewing and/or changing this Agreement.

4. Authority

- a. The Mothers will have sole day to day and long-term parental responsibility for the child and have authority to make decisions on behalf of the child including decisions relating to the child's health, education, social and religious affiliations, naming the child and *[insert any additional areas]*.
- b. The Mothers have authority to appoint a guardian for the child and that guardian may make decisions on behalf of the child as delegated by the Mothers.
- c. The Donor has no parental responsibility or authority whatsoever in respect to the child.

5. Role of the Donor in the Family

- a. The Donor will not have a presence in the family.
- b. The family shall operate in accordance with the wishes of the Mothers.
- c. The Donor acknowledges and accepts that the Mothers will be the child's only parents and will be seen to be the child's parents to the rest of the world.

**PART FOUR: EXAMPLES OF AGREEMENTS
BETWEEN MOTHERS & DONORS (continued)**

6. Residence

- a. The child shall reside solely with the Mothers.

7. Contact

- a. The Donor shall have no contact with the child.
- b. No contact means the Donor will not have any physical contact with the child nor will the Donor communicate with the child in any way whether by telephone, letters or email.
- c. The Parties are mindful that the child may want contact with the Donor. The child's request to have contact with the Donor shall constitute a reason for reviewing and/or changing this Agreement.

8. Financial responsibilities

- a. The Mothers are solely responsible for supporting the child financially.
- b. The Mothers will share this financial responsibility equally *[or as otherwise agreed between them]*.
- c. This Agreement releases the Donor from any financial responsibility for the child whatsoever.
- d. The Mothers agree that they will not pursue any financial assistance from the Donor.

9. Changes to family

- a. The Donor is under no obligation to inform the Mothers if he changes his place of residence or contact details.
- b. The Mothers are under no obligation to inform the Donor if they change their place of residence or contact details.

OR

- c. The Donor has an obligation to inform the Mothers if he changes his place of residence or contact details.
- d. The Mothers have an obligation to inform the Donor if they change their place of residence or contact details.

MAY INCLUDE

- e. The Parties will notify the following third party if they change their place of residence or contact details: *[insert the name of a third party that all parties are comfortable reporting any changes to residence or other contact details. A mutual friend or solicitor may be appropriate]*.

10. Confidentiality clause

- a. The Donor and the Mothers may only disclose information contained in this Agreement if the parties agree that the information may be disclosed.

**PART FOUR: EXAMPLES OF AGREEMENTS
BETWEEN MOTHERS & DONORS (continued)**

11. Changing the Agreement

- a. The Parties acknowledge that over time the Parties may wish to make changes to the terms of this Agreement.
- b. If any Party or Parties wish to make changes to this Agreement, the Parties agree that they will engage in an open-minded discussion in relation to the terms of this Agreement the Party wishes to change, with the best interests of the child being the fundamental consideration.
- c. All changes to this Agreement will be made in writing and signed by all Parties.

12. Dispute Resolution Procedures

- a. If the Parties have conflicting views or are in dispute in relation to a term of this Agreement or in relation to any issue that effects the child, the Parties agree to attempt to resolve the issue via mediation in the first instance.
- b. The Parties will agree upon an appropriate mediator *[or insert the name of a person or organisation who you all agree would be suitable]*.
- c. The Parties will genuinely attempt to resolve any disputes via mediation until one or all of the Parties concludes that the mediation process is not an effective means of resolving the dispute and a new approach must be taken *[or insert a period of time you think is reasonable, say 4 weeks, over which you agree to try and solve the problem]*.
- d. If the Parties are unable to settle the dispute via mediation or other dispute resolution process, the Parties may make application to the Family Court of Australia.

By signing this Agreement, the Donor and the Mothers agree that they have carefully considered each clause of this Agreement with the best interests of the child in mind, and will genuinely endeavour to honour this Agreement in good faith.

.....
[Insert name of Mother]

.....
[Insert name of Donor]

.....
[Insert name of Co-parent]

PART FOUR: EXAMPLES OF AGREEMENTS BETWEEN MOTHERS & DONORS (continued)

2. EXAMPLE OF AGREEMENT WITH DONOR WHERE DONOR HAS SOME INVOLVEMENT WITH CHILD

THIS AGREEMENT IS MADE ON _____

BETWEEN _____ and _____ (“MOTHERS”)

AND _____ (“DONOR”)

The Mothers and Donor may also be referred to as the “Parties”.

The Parties to this Agreement acknowledge that:

- in all circumstances, the best interests of the child are the fundamental consideration.
- regardless of who is listed on the child’s birth certificate, the Donor is not a legal parent.
- the rights of all Parties to residence or contact is determined by Australian law in accordance with the best interests of the child.
- all Parties and other persons who have an interest in the care, welfare and development of the child may apply to the Family Court for orders to be made regardless of whether or not they are legal parents.
- parts of the agreement relating to financial support may be legally binding. Most other parts of the agreement are not legally binding.

The purpose of the Agreement is to ensure the Parties have thoughtfully considered the issues contained in each clause of this Agreement and to further ensure that the Parties have a clear understanding of the other Parties’ expectations and intentions.

PRE-CONCEPTION CONSIDERATIONS

1. Conception

- a. The Parties acknowledge that *[insert name of intended mother]* is attempting to become pregnant through *[self-insemination/IVF/clinical insemination]* and give birth to a child.
- b. The Donor has agreed to provide his semen to the Mothers for the purpose of *[self-insemination/IVF/clinical insemination]*.
- c. The semen will be provided at a time and place as agreed between the Mothers and the Donor.
- d. The Donor is prepared to provide his semen for this purpose until the Mothers conceive or until *[insert date]*.
- e. The Donor will be notified by the Mothers when and if *[insert name of intended biological mother]* successfully conceives.
- f. The Donor will be notified by the Mothers when and if *[insert name of intended biological mother]* successfully gives birth to a child/children.
- g. The following people will be present at the birth of the child: *[insert who will be present]*.

PART FOUR: EXAMPLES OF AGREEMENTS BETWEEN MOTHERS & DONORS (continued)

2. Health

- a. The Donor agrees to fully disclose to the Mothers his medical history and knowledge of any medical condition common to his family members.
- b. The Donor agrees to undergo medical examinations and any physical or genetic tests as requested by the Mothers including: *[insert a list of tests the Donor is required to undertake]*.
- c. The Mothers agree to pay for any medical examinations or tests that the Donor undertakes at the request of the Mothers.
- d. If the Donor becomes aware of a medical condition that may be genetically attributable, the Donor has a duty to inform the Mothers of this medical condition.

POST-CONCEPTION CONSIDERATIONS

3. Identity

- a. The Donor's name will/will not appear on the child's birth certificate.
- b. The Donor's identity will be made known to the child.
- c. The Donor's identity shall be made known to the child *[insert when the identity will be made known to the child, eg: from birth, at the discretion of the Mother at age X, etc]*.
- d. The Donor shall/shall not seek out the identity of the child before the time specified in 3(c).
- e. If the child wishes to know the identity of the Donor before the time specified in 3(c), the Donor agrees/does not agree that the Mothers may provide the child with the following information when the child reaches *[insert age]* years of age: *[insert what information will be made known to the child, eg: name, age, picture, address at time of Agreement, current address if known, etc]*.
- f. The Parties agree that the child's request for information relating to the identity of the Donor constitutes a reason for reviewing and/or changing this Agreement.

4. Authority

- a. The Mothers will have sole day to day and long term parental responsibility for the child and have authority to make decisions on behalf of the child including decisions relating to the child's health, education, social and religious affiliations, naming the child and *[insert any additional areas]*.
- b. The Mothers have authority to appoint a guardian for the child and that guardian may make decisions on behalf of the child as delegated by the Mothers.
- c. The Donor has no parental responsibility or authority whatsoever in respect of the child.

OR

- d. The Mothers will have primary parental responsibility of the child and have the overriding authority to make decisions on behalf of the child with the exception of the following issues, which will be the joint responsibility of the Mothers and the Donor: *[insert areas that Mothers and Donors will have joint authority in respect of]*.
- e. The Mothers have authority to appoint a guardian for the child and that guardian may make decisions on behalf of the child as delegated by the Mothers.

PART FOUR: EXAMPLES OF AGREEMENTS BETWEEN MOTHERS & DONORS (continued)

5. Role of the Mothers and Donor in the Family

- a. The family shall operate in accordance with the wishes of the Mothers.
- b. The Donor acknowledges and accepts that the Mothers will be the child's only parents and will be seen to be the child's parents to the rest of the world.
- c. The Donor will/will not have a presence or role in the family *[if the Donor will have a presence or role, include the following]*. The Donor's role will be as follows: *[insert a description of the Donor's role in the family that the Parties agree upon]*.
- d. The Parties envisage that the child will refer to each of the Parties by the following name:
[insert name of one Mother]: [insert name the child will refer to this Mother as]
[insert name of one Mother]: [insert name the child will refer to this Mother as]
[insert name of Donor]: [insert name the child will refer to the Donor as].

6. Residence

- a. The child shall reside solely with the Mothers.

OR

- b. The child will reside with both the Donor and the Mothers in accordance with the following arrangement:
[describe terms of the arrangement].

7. Contact

- a. The Donor shall have contact with the child in accordance with the following arrangements:
[insert terms of contact, eg: Until the age of two, the contact will be limited to contact at the mothers' home for X hours every X days. Between the ages of two and 5, the child shall stay with the Donor one night a week per week/fortnight/month].
- b. Contact arrangements may be altered, with the consent of the Mothers, to accommodate for contact that may be more appropriate for the child at a particular age.
- c. The Donor may request to alter the contact arrangements with the child and the arrangements may be altered if the Mothers consent to the alterations.
- d. Contact arrangements will be renegotiated if the Mothers or Donor change their place of residence.
- e. All costs associated with the Donor's contact with the child shall be borne by the Donor.
- f. If the Mothers are concerned in relation to the manner in which the Donor is spending time with or looking after the child, the Mothers may restrict contact until the Mothers and Donor can agree on appropriate contact arrangements *[eg: where child sleeps, places the child is taken by the Donor etc]*.
- g. The child will have contact with the following people in accordance with the arrangements set out below:
[insert contact arrangements, eg: The Donor's mother, Doris Smith, 1 hour visits weekly at her residence].
- h. The Parties are mindful that the child may request to alter the contact arrangements he or she has with the Donor or other persons. The child's request to have contact or alter contact arrangements shall constitute a reason for reviewing and/or changing this Agreement.

PART FOUR: EXAMPLES OF AGREEMENTS BETWEEN MOTHERS & DONORS (continued)

8. Financial responsibilities

- a. The Mothers are solely responsible for supporting the child financially.
- b. The Mothers will share this financial responsibility equally *[or as otherwise agreed between them]*.
- c. This Agreement releases the Donor from any financial responsibility for the child whatsoever.
- d. The Mothers agree that they will not pursue any financial assistance from the Donor.

OR

- e. The Mothers are primarily responsible for supporting the child financially except for the expenses set out in 8(b) *[eg: The Donor shall pay 50% of the child's educational expenses; The Donor shall pay for any expenses incurred while the child is in the Donor's care]*.
- f. The Mothers agree that they will not pursue any financial assistance from the Donor except for the expenses set out in 8(b) above.
- g. The Mothers will share their portion of the financial responsibility equally *[or as otherwise agreed between them]*.

9. Changes to family

- a. If there are any changes to the Donor or Mothers' families *[eg: either party re-partners or has more children]*, the parties will review this agreement in accordance with clause (12) of this Agreement.
- b. The Donor has an obligation to inform the Mothers if he changes his place of residence or contact details.
- c. The Mothers have an obligation to inform the Donor if they change their place of residence or contact details.

MAY INCLUDE

- d. The Parties will notify the following third party if they change their place of residence or contact details: *[insert the name of a third party that all parties are comfortable reporting any changes to residence or other contact details. A mutual friend or solicitor may be appropriate]*.

10. Confidentiality clause

- a. The Donor and the Mothers may only disclose information contained in this Agreement if the parties agree that the information may be disclosed.

**PART FOUR: EXAMPLES OF AGREEMENTS
BETWEEN MOTHERS & DONORS (continued)**

11. Reviewing Agreement

- a. The purpose of reviewing the Agreement is to ensure the Agreement accurately reflects:
 - (i) the relationship between the Mothers and the Donor;
 - (ii) the relationship between the Mothers and the child;
 - (iii) the relationship between the Donor and the child;and most importantly, to ensure the Agreement remains in the best interest of the child.
- b. The Parties agree that they will review this Agreement every *[insert period of time, eg: 1 year, 6 months]* from the date of the Agreement.
- c. The Parties also agree to review the Agreement at a sooner time if one or more of the Parties feels that it is necessary or if an event warrants the Agreement being reviewed.

12. Changing the Agreement

- a. The Parties acknowledge that over time the parties may wish to make changes to the terms of this Agreement.
- b. If any Party or Parties wish to make changes to this Agreement, the Parties agree that they will engage in an open minded discussion in relation to the terms of this Agreement the Party wishes to change, with the best interests of the child being the fundamental consideration.
- c. All changes to this Agreement will be made in writing and signed by all Parties.

13. Dispute Resolution Procedures

- a. If the Parties have conflicting views or are in dispute in relation to a term of this Agreement or in relation to any issue that effects the child, the Parties agree to attempt to resolve the issue via mediation in the first instance.
- b. The Parties will agree upon an appropriate mediator *[or insert the name of an person or organisation who you all agree would be suitable]*.
- c. The parties will genuinely attempt to resolve any disputes via mediation until one or all of the Parties concludes that the mediation process is not an effective means of resolving the dispute and a new approach must be taken *[or insert a period of time you think is reasonable, say 4 weeks, over which you agree to try and solve the problem]*.
- d. If the Parties are unable to settle the dispute via mediation or other dispute resolution process, the parties may make application to the Family Court of Australia.

By signing this Agreement, the Donor and the Mothers agree that they have carefully considered each clause of this Agreement with the best interests of the child in mind and will genuinely endeavour to honour this Agreement in good faith.

.....
[Insert name of Mother]

.....
[Insert name of Donor]

.....
[Insert name of Co-parent]

PART FIVE:

PARENTING ORDERS KIT

Obtaining Parenting Orders for Co-parent by Consent

GENERAL INSTRUCTIONS

This Kit is intended for use where:

- The birth mother and co-parent wish to share parental responsibility for the child; AND
- Wish to have that parental responsibility formally and legally recognised through Court orders.

An application for parenting orders cannot be made until after a child is born.

Please note that these general instructions are intended as a guide only. It is strongly recommended that you seek legal advice before filing any documents prepared using this kit.

General

Currently, under New South Wales law, the birth mother is presumed a parent of a child conceived through donor insemination. As such she automatically has parental responsibility for the child. However, her female partner is not presumed a parent of the child and does not have parental responsibility.

The sperm donor is not presumed to be a parent and does not have parental responsibility.

The Parenting Orders Kit is designed to assist lesbian couples who have a child by donor insemination to obtain, by consent, court orders that confer parental responsibility on the female partner of the birth mother. This does not make the co-parent a “parent” at law, although for social and practical purposes she will undertake a parenting role. However the court order does allow her to take part in the decision making process in which a “parent” would otherwise be entitled to participate, for example, authority to make decisions concerning schooling or medical treatment.

When the mothers and donor want parenting orders made conferring parental responsibility on the donor, the forms and processes described in this kit will apply, but we recommend that legal advice be obtained.

Counsellors Report

These instructions and the accompanying sample documents set out the process involved in obtaining parenting orders by consent. Please note that there is a requirement under the *Family Law Act* that where orders for residence or parental responsibility are sought “otherwise than in favour of a parent, or of persons who include a parent”, the Court is required to consider a report by a counsellor of the Family Court before making the orders.

The requirement for a counseling report should really only arise where residence or parental responsibility is *wholly* being given to a person who is not a biological parent. Unfortunately, the requirement is not uniformly applied by the various Family Court registries across NSW. Registration of Consent Orders by same sex couples is still an infrequent occurrence and until consistent practices are developed, couples may face added delays because of a direction by the court that the parties attend counseling for the purposes of a report being prepared for the court.

It is possible that the requirement to attend counselling for the preparation of a report can be waived if the birth mother provides an affidavit (written statement) setting out the circumstances of the family. This kit is designed to enable the parenting orders by consent to be obtained without the Court requiring the report. It is the view of the author of this kit that it is unlikely the Court will require a report to be prepared, however this cannot be guaranteed.

Given that to date relatively few Family Court registries and their staff have processed Applications for Consent Orders by lesbian couples seeking parenting orders, it is possible that you will encounter other problems. We understand that the Family Court is aiming to develop a uniform practice for these applications, but it is unclear when this will be completed. Should you experience difficulties filing your application, you should seek legal advice (see *Contacts*).

Documents to be filed at court:

- Certified copy of the child's birth certificate
- Form 11 - Application for Consent Orders (Consent Orders Kit)
- Consent Orders
- Affidavit of Birth Mother.

You can download the above forms from the website of the Family Court of Australia: www.familycourt.gov.au by selecting the option 'Forms and Fees'.

Examples of how to complete these forms are included in this kit.

- Sample - Form 11
Application for Consent Orders
(see pages 27 - 37)
- Sample Affidavit of Birth Mother
(see pages 38 - 41)
- Sample Consent Orders
(see pages 42 - 45)

It is suggested that the parties attempt to complete the documents, and then consult a family law solicitor for advice - preferably someone who is queer friendly and a specialist.

Procedure

Once the documents have been drafted, the parties have sought legal advice and the documents have been finalised, they should all be signed in the presence of a Justice of the Peace or a solicitor.

The original plus 2 copies of the completed documents should then be filed with the Court. There are a number of jurisdictions which can deal with the Application for Consent Orders. However, it is recommended the documents be filed in either the Family Court of Australia, or Local Court (Family Matters) St James Centre in Sydney. There is no cost involved in filing the Application for Consent Orders.

Assuming all of the documents are in order and the court dealing with it does not consider a family report is necessary (which is not likely), then the parenting orders should issue from the Court after a few weeks, and copies will be received in the post. Alternatively, the parties may be required to attend court in person.

PART SIX: CONTACTS

- Anti Discrimination Board of NSW

Level 4, 175-183 Castlereagh Street,
Sydney NSW 2000

Ph: 9268 5555 or 1800 670 812 (rural/regional)

Web: <http://www.lawlink.nsw.gov.au/adb>

- Centrelink

Family Payment Line - 131 305 or call your local
Centrelink office.

- Community Legal Centres (CLC)

Community Legal Centres provide free legal
information, advice and referral.

To find the CLC closest to you, contact the NSW
Community Legal Centres' *State Office*:

Ph: 9318 2355

Web: <http://www.nswclc.org.au/Contact.html>

- Department of Foreign Affairs
and Trade – Australian Passport
Information Service

12 Floor, 255 Pitt Street, Sydney NSW 2000

Ph: 131 232

Web: <http://www.passports.gov.au/Web/index.aspx>

- Family Court of Australia

2nd Floor, 97-99 Goulburn Street,
Sydney NSW 2000

Ph: 9217 7111

Web: <http://www.familycourt.gov.au>

- Family Planning NSW - Telephone
Information Nurse Service

For telephone advice and information on fertility,
conception and pregnancy.

328-336 Liverpool Road, Ashfield NSW 2131

Ph: 9716 6099

Web: <http://www.fpahealth.org.au>

- HIV/AIDS Legal Centre

P.O. Box 350, Darlinghurst NSW 1300

Ph: 9206 2060

Web: <http://www.halc.org.au>

- Leichhardt Women's Community
Health Centre

For information about fertility charting, known
donor insemination techniques, referrals to
fertility clinics, sexual health screening,
pregnancy advice and childbirth classes.

55 Thornley Street, Leichhardt NSW 2040

Ph: 9560 3011

Web: <http://www.lwchc.org.au>

- Lesbian and Gay Legal Advice
Service (LGLAS)

LGLAS is a project of the Gay and Lesbian
Rights Lobby. It is auspiced by and operates out
of the Inner City Legal Service every Wednesday
evening between 6 - 8 pm. By appointment only.

Suite 6A, 66 Oxford Street,
Darlinghurst NSW 2010

Ph: 9332 1966

PART SIX: CONTACTS (continued)

- Registry of Births, Deaths and Marriages

35 Regent Street, Chippendale NSW 2008

Ph: 1300 655 236

- Royal Prince Alfred Hospital - Donor Insemination Clinic

The clinic is held on Thursday afternoons with a doctor and counsellor, and covers known donor arrangements and donor insemination using a donor from the hospital sperm bank. Appointments can be made to see the counsellor at any time. It is not necessary to be on the programme to see the counsellor.

Missenden Road, Camperdown NSW 2050

Ph: 9515 7101 for clinic appointment

9515 8119 for appointment with the counsellor

- Welfare Rights Centre (WRC)

The WRC is a community legal centre which specialises in social security law.

5th Floor, 414 Elizabeth Street,
Surry Hills NSW 2010

Ph: 9211 5300 or 1800 226 028 (rural/regional)

Web: <http://www.welfarerights.org.au/sydney/index.htm>

PART SEVEN: FURTHER READING

- Borthwick, Prue and Bloch, Barbara.
Mothers and Others.
Sydney, 1996

- Donor Conception Support Group.
Let the Offspring Speak:
Discussions on Donor Conception.
PO Box 53, Georges Hall NSW 2198.
Ph: 9624 5110

- Martin, April.
The Lesbian and Gay Parenting Handbook.
Harper Perennial Books. USA, 1993

- National Centre for Lesbian Rights.
Lesbians Choosing Motherhood.
San Francisco.
Fax: 1-415 392 8442

- Pies, Cherie.
Considering Parenthood:
A Workbook For Lesbians.
Spinster Ink. USA

- The Royal Women's Hospital, Victoria
*Pride and Joy: A Resource for Prospective
Lesbian Parents in Victoria.*
Ph: (03) 9344 3211
Web:
http://www.rwh.org.au/wellwomens/whic.cfm?doc_id=4612

- Saffron, Lisa.
Getting Pregnant Our Own Way:
A Guide to Alternative Insemination.
UK, 1987

- The Boston Women's Health Book Collective.
Our Bodies, Our Selves For the New Century.
Simon and Schuster. USA, 1998

- *The Law Handbook: Your Practical Guide to the
Law in New South Wales.* 9th edition.
(Chapter 39 - Same Sex Couples and
their Families)
Redfern Legal Centre Publishing. Sydney, 2004

- Wakeling, Louise and
Bradstock, Margaret (Editors)
*Beyond Blood: Writings on the
Gay and Lesbian Family.*
Sydney, 1995

- Internet Sites

 - Family Pride Coalition
<http://www.familypride.org>
 - Human Rights Campaign - Lesbian Health Links
<http://www.hrc.org>
 - Lesbian Moms
<http://www.lesbian.org/moms/index.htm>
 - Women Alive
<http://www.thebody.com/wa/wapage.html>

**NOTES FOR COMPLETING:
FORM 11: APPLICATION FOR CONSENT ORDERS**

(Sample form follows these notes)

PART A

- Question 1 Insert the name of the birth mother as applicant, and the co-parent as respondent.
- Questions 2 – 4 Complete as appropriate.
- Questions 5 – 8 You are not required to answer these questions; they are optional.

PART B

- Question 9 The approximate date you commenced living together is sufficient.
- Questions 10 – 12 These are not applicable.

PART C

- Questions 13 – 14 If the answer to either is yes, indicate and provide relevant details.
- Questions 15 – 16 If the answer to this question is yes, indicate and provide relevant details.
- Questions 17 – 21 These are not applicable.

PART D

- Question 22 Provide details as appropriate. The primary care givers will presumably be both the applicant and respondent and they should both be named if this is so.
- Question 23 This question seems to be intended for cases where the parties have separated, and does not seem to contemplate the arrangements being dealt with in your application. It can be answered as shown, which indicates that both the birth mother and co-parent live with each other and the child. If there are any other members of the household apart from children listed in question 22, then they should be indicated in either column where space permits. This question only needs to be completed for each child who is the subject of the consent orders sought (ie: if there are other children in the household who are not the subject of the consent orders, then you do not need to provide details under the heading "Child 2" and so forth).

PART F

- Question 25 Mark the boxes appropriate to each party.
- Question 26 Set out general details for each child who is the subject of the orders. Again, this question is designed for cases where the parties have separated. Some examples of appropriate answers might include:
- Housing – the child lives in a *[how many]* bedroom home/apartment and has his/her own room *[or otherwise state the arrangements relevant to your child]*.
 - Supervision – the child is supervised by both parties at all times *[or otherwise state the relevant arrangements]*.
 - Financial support – the parties both provide financial support for the child *[or otherwise state the relevant arrangements]*.
 - Health – the child is in good health *[or specify any health issues]*.
 - Education – the child is not yet of school age *[presumably the consent orders will be sought prior to the child commencing school, but if this is not correct, please specify which school the child attends, and in which year]*.
 - Any other matters – It is not intended that the child will have a relationship or contact with the sperm donor *[this is optional, and can be left out]*.

PART I

Mark the appropriate boxes as indicated. You should also indicate if the applicant has received independent legal advice. The page is then to be signed by the applicant in the presence of a Justice of the Peace or a solicitor.

PART J

To be completed and signed, if appropriate, by the lawyer who advised the applicant. Omit if no independent legal advice was obtained.

PART K

Mark the appropriate boxes as indicated. You should also indicate if the respondent has received independent legal advice. The page is then to be signed by the respondent in the presence of a Justice of the Peace or a solicitor.

PART L

To be completed and signed, if appropriate, by the lawyer who advised the respondent. Omit if no independent legal advice was obtained.

Application for Consent Orders –

FORM 11 Family Law Rules ~ RULE 10.15

COURT USE ONLY

Please type or print clearly and mark all boxes that apply. Attach extra pages if you need more space to answer any questions.

Filed in:

- Family Court of Australia
- Family Court of Western Australia
- Federal Magistrates Court of Australia
- Other (specify)

Client ID	
File number	
Filed at	
Filed on	
Court location	
Court date	

Notice to the parties

- Each **applicant** must swear/affirm the affidavit in Part I.
- Each **respondent** must swear/affirm the affidavit in Part K.
- The application must be filed promptly. The consent order may not be made if the application is not filed within 90 days of the date of the first affidavit (see Parts I and K).
- Each copy must be certified by you or your lawyer as a true copy.
- Each party must sign in the space provided at the bottom of each page.

Part A About the parties

1 APPLICANT
 What is your family name as used now?

 Given names?

 Male Female

2
 What is your usual occupation?

3
 What is your contact address (address for service) in Australia?

 State Postcode
 Phone:

 Lawyer's code:
 Email:
 Reference

RESPONDENT
 What is your family name as used now?

 Given names?

 Male Female

What is your usual occupation?

What is your contact address (address for service) in Australia?

 State Postcode
 Phone:

 Lawyer's code:
 Email:
 Reference:

* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

APPLICANT

RESPONDENT

4	When and in what country were you born?	When and in what country were you born?								
	<table border="1" style="width: 100%;"> <tr> <th style="width: 35%;">DAY/MONTH/YEAR</th> <th style="width: 65%;">COUNTRY</th> </tr> <tr> <td style="height: 20px;"></td> <td></td> </tr> </table>	DAY/MONTH/YEAR	COUNTRY			<table border="1" style="width: 100%;"> <tr> <th style="width: 35%;">DAY/MONTH/YEAR</th> <th style="width: 65%;">COUNTRY</th> </tr> <tr> <td style="height: 20px;"></td> <td></td> </tr> </table>	DAY/MONTH/YEAR	COUNTRY		
DAY/MONTH/YEAR	COUNTRY									
DAY/MONTH/YEAR	COUNTRY									
5	Are you of Aboriginal and/or of Torres Strait Islander origin? <input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander	Are you of Aboriginal and/or of Torres Strait Islander origin? <input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander								
6	In which country was your mother born?	In which country was your mother born?								
7	In which country was your father born?	In which country was your father born?								
8	How well do you speak English? <input type="checkbox"/> Very well <input type="checkbox"/> Well <input type="checkbox"/> Not well <input type="checkbox"/> Not at all	How well do you speak English? <input type="checkbox"/> Very well <input type="checkbox"/> Well <input type="checkbox"/> Not well <input type="checkbox"/> Not at all								

♦ You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court’s services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

If there is more than one applicant or respondent, attach an extra page with the details for Applicant 2/Respondent 2, answering Items 1-8.

Part B About the relationship of the parties

9	When did you begin living together?		NOT APPLICABLE
	DATE / /		<input type="checkbox"/>
10	When and where did you get married?	TOWN/CITY	COUNTRY
	DATE / /		<input checked="" type="checkbox"/>
11	When did you finally separate?		
	DATE / /		<input checked="" type="checkbox"/>
12	When and where did you get divorced?	TOWN/CITY	COUNTRY
	DATE / /		<input checked="" type="checkbox"/>

Part C

About other Court cases and orders

IF YOU ARE SEEKING **PARENTING ORDERS**, ANSWER ITEMS 13 TO 16

IF YOU ARE SEEKING **FINANCIAL ORDERS**, ANSWER ITEMS 13, 14, AND 17 TO 21.

13 Are there any **ongoing cases** in this or any other court about family law, child support, domestic violence or child welfare that involve any of the parties or any of the children listed on this form?

No

Yes PLEASE GIVE THE FOLLOWING DETAILS

Court name and place

Next Court date

	/ / 2004
--	----------

State the names of the parties

--

State the nature of the orders sought (NUMBER EACH ORDER SOUGHT)

1.
2.
3.
4.

IF THERE IS MORE THAN ONE CASE, PLEASE ATTACH AN EXTRA PAGE, NUMBERING IT ITEM 13 ~ PAGE 2

14 Are there any **existing orders**, agreements, parenting plans or undertakings to a court about family law, child support, domestic violence or child welfare concerning any of the parties or children listed on this form?

No

Yes **Either** attach a full copy of the order, agreement, parenting plan or undertaking or set out details below (attach an extra page if you need more space, numbering the page/s Item 14 page 2 and so on).

Attached is a copy/copies of the following (mark the boxes that apply):

order

undertaking

parenting plan

agreement

OR

GIVE THE FOLLOWING DETAILS

Court name and place

Date

	/ /
--	-----

Names of the parties to the order/ agreement/ parenting plan/ undertaking

--

CONTINUE ON PAGE 4 FOR DETAILS OF THE ORDER/AGREEMENT/PARENTING PLAN/UNDERTAKING

Details of the order/ agreement/ parenting plan/ undertaking

1.
2.
3.

IF THERE IS MORE THAN ONE CASE PLEASE ATTACH AN EXTRA PAGE, NUMBERING IT ITEM 14 ~ PAGE 2

15 If there is a family violence order, are the orders sought in this application consistent with that order?

Yes **NOT APPLICABLE**

No **GIVE BRIEF DETAILS** (see sections 68R, 68S and 68T of the *Family Law Act*)

--

16 Has any person with whom the child will reside or have contact been convicted of an offence under a child welfare law or the Family Law Act, or of a criminal offence relevant to a child's welfare?

No

Yes **GIVE DETAILS**

Name of the person	Approximate date

Court name and place	Offence

17 Have the parties entered into a binding financial agreement or a superannuation agreement under the Family Law Act or under any relevant State or Territory legislation?

No **NOT APPLICABLE**

Yes **ATTACH A COPY OF THE AGREEMENT/S**

18 If either party has a superannuation interest, has the non-member spouse served a waiver notice on the Trustee of the eligible superannuation plan under section 90MZA of the Act for a payment split made in relation to the superannuation interest?

No **NOT APPLICABLE**

Yes **ATTACH A COPY OF THE NOTICE**

19 If either party has a superannuation interest, is there a payment flag in operation in relation to that interest?

No **NOT APPLICABLE**

Yes **ATTACH A COPY OF THE ORDER OR AGREEMENT CREATING THE FLAG**

- 20 Is any party currently bankrupt or currently a debtor in bankruptcy proceedings started by either a creditor's petition or a debtor's petition?
 No **NOT APPLICABLE**
 Yes

- 21 Is there a proceeds of crime order or current forfeiture application in relation to any of the property of any of the parties (see *Proceeds of Crime Act 2002* (C'wlth))?
 No **NOT APPLICABLE**
 Yes **ATTACH A SEALED COPY OF THE ORDER OR APPLICATION**

Part D About the children

This part must be completed by all applicants if there are children under the age of 18 years, regardless of whether the orders sought are in relation to children, property or maintenance. You must give details for each natural or adopted child of both or either of you who is under 18. This is regardless of whether the child has lived with both or either of you.

- 22 Give the following details for each child
- | | Family name | Given names | Primary care giver* | Date of birth | Sex |
|----------|-------------|-------------|---------------------|---------------|-----|
| Child 1: | | | | / / | |
| Child 2: | | | | / / | |
| Child 3: | | | | / / | |
| Child 4: | | | | / / | |

* IDENTIFY THE PERSON WITH WHOM THE CHILD LIVES MOST OF THE TIME

- 23 Who else lives in the child's home when the child is living with the applicant and when the child is living with the respondent? **Do not include the other children listed in Item 22.**

APPLICANT

Child 1

FATHER MOTHER
 OTHER PERSON Age _____
 Male Female
 Name and relationship to the child

Co parent (the respondent)

RESPONDENT

FATHER MOTHER
 OTHER PERSON Age _____
 Male Female
 Name and relationship to the child

Mother (the applicant)

Child 2

FATHER MOTHER
 OTHER PERSON Age _____
 Male Female
 Name and relationship to the child

FATHER MOTHER
 OTHER PERSON Age _____
 Male Female
 Name and relationship to the child

APPLICANT

RESPONDENT

Child 3

FATHER MOTHER
 OTHER PERSON Age _____
 Male Female

Name and relationship to the child

FATHER MOTHER
 OTHER PERSON Age _____
 Male Female

Name and relationship to the child

Child 4

FATHER MOTHER
 OTHER PERSON Age _____
 Male Female

Name and relationship to the child

FATHER MOTHER
 OTHER PERSON Age _____
 Male Female

Name and relationship to the child

Part E Order/s sought

24 The parties seek orders in terms of the draft Consent Orders that are signed by the parties and attached.

Part F Details for parenting orders

Omit all of this Part if no parenting orders are sought, and remove pages 7 & 8 when filing.

APPLICANT 1

RESPONDENT 1

25 **Jurisdiction**

Jurisdiction

Which of the following applies?

Which of the following applies?

MARK EVERY BOX THAT APPLIES TO APPLICANT 1 AND

EVERY BOX THAT APPLIES TO RESPONDENT 1.

- I am present in Australia
- I am ordinarily resident in Australia
- I am an Australian citizen
- The child (or children) is present in Australia/ ordinarily resident in Australia/ is an Australian citizen

- Present in Australia
- Ordinarily resident in Australia
- An Australian citizen

Where details for Child 2 are the same as Child 1 write "As for Child 1"

26

Child 1

Proposed arrangements for the child:

Housing (eg. 3 bedroom house – child has own room).

Child 2

Proposed arrangements for the child:

Housing (eg. 3 bedroom house – child has own room).

Supervision (who looks after the child? eg: If the parent who lives with the child is working outside the home who looks after the child during the parent's absence).

Financial support (details about maintenance and child support, including details of maintenance orders or child support assessments and what is actually being paid or proposed to be paid by any parent or party to the marriage who does not live with the child).

Health (details of the health of the child and any treatment or ongoing medication needs).

Education (details about what school the child attends, what year he/she is in and what progress is being made).

Any other matters (under subsection 68F(2) of the *Family Law Act*).

Where details for Child 3 & 4 are the same as Child 1 write "As for Child 1"

26

Child 3

Proposed arrangements for the child:

Housing (eg. 3 bedroom house – child has own room).

Supervision (who looks after the child? eg: If the parent who lives with the child is working outside the home who looks after the child during the parent's absence).

Financial support (details about maintenance and child support, including details of maintenance orders or child support assessments and what is actually being paid or proposed to be paid by any parent or party to the marriage who does not live with the child).

Health (details of the health of the child and any treatment or ongoing medication needs).

Education (details about what school the child attends, what year he/she is in and what progress is being made).

Any other matters (under subsection 68F(2) of the *Family Law Act*).

Child 4

Proposed arrangements for the child:

Housing (eg. 3 bedroom house – child has own room).

If there are no more children and you are not seeking any financial orders: **GO TO PART I, ON PAGE 19**. If you need more space for any other children, attach an extra page, numbering it Item 26, Child 5; Item 26 Child 6 and so on.

Part I

Affidavit of applicant

- Mark every box that applies.
- You must attach a further Part I and J for each other applicant if applicable

I swear* / affirm* that:

- I am the **applicant**.
- I have read this application and the draft Consent Orders.
- The orders are agreed upon by all parties.
- I am aware of my right to obtain independent legal advice.
- I have had independent legal advice on my relevant rights under the Family Law Act and the effect and consequences of orders being made in the terms proposed.
- Apart from column 2 of Parts G and H (if included) the matters stated in this application that are within my personal knowledge are true and all other facts are true to the best of my knowledge, information and belief and the orders sought are supported by evidence.
- I have signed each page of the attached draft Consent Orders.
- For parenting orders** - I have read and considered sections 60B, 65E and 68F of the Family Law Act.
- For financial orders** - I have read and considered section 72, section 79, and subsection 75(2) and where there is a superannuation interest, Part VIII B of the Family Law Act.
- For financial orders**
 - (a) I have no interest in property, superannuation, or a financial resource which is not described in column 1 of Part G.
 - (b) Where I give any estimate in this application it is based on knowledge, information and belief and is given in good faith.
- For property orders in relation to a superannuation interest** - the trustee of the superannuation plan:
 - (a) at least 28 days before this application is filed - has been served with written notice:
 - (i) of the intention to seek orders from the court in the terms of the attached orders sought; and
 - (ii) that the trustee may object to the orders sought by giving written notice of the objection before this application is filed; and
 - (b) has not objected to the orders sought.

Your signature	Place	Date	/	/
Before me (signature of witness)	Full name of witness (please print)			

- Justice of the Peace Notary public Lawyer

* delete whichever is inapplicable

Part J

Statement of independent legal advice

(OMIT IF NOT APPLICABLE)

- I am a lawyer entitled to practise in this Court.
- I have given the **applicant** independent legal advice as to the meaning and effect of the draft Consent Orders and explained their rights, entitlements and obligations.
- I have signed each page of the draft Consent Orders sought.
- I gave the **applicant** a copy of the Family Court's brochure *Marriage, Families and Separation*.
- I gave the **applicant** a copy of the Family Court's brochure *Mediation ~ Pathway to Agreement*.

Signature of lawyer	Print name
	Date / / 2004

Part K Affidavit of respondent

- Mark every box that applies.
- You must attach a further Part K and L for each other respondent if applicable

I swear* / affirm* that:

- I am the **respondent**.
- I have read this application and the draft Consent Orders.
- The orders are agreed upon by all parties.
- I am aware of my right to obtain independent legal advice.
- I have had independent legal advice on my relevant rights under the Family Law Act and the effect and consequences of orders being made in the terms proposed.
- Apart from column 1 of Parts G and H (if included) the matters stated in this application that are within my personal knowledge are true and all other facts are true to the best of my knowledge, information and belief and the orders sought are supported by evidence.
- I have signed each page of the attached draft Consent Orders.
- For parenting orders** - I have read and considered sections 60B, 65E and 68F of the Family Law Act.
- For financial orders** - I have read and considered section 72, section 79, and subsection 75(2) and where there is a superannuation interest, Part VIII B of the Family Law Act.
- For financial orders**
 - (a) I have no interest in property, superannuation, or a financial resource which is not described in column 2 of Part G.
 - (b) Where I give any estimate in this application it is based on knowledge, information and belief and is given in good faith.
- For property orders in relation to a superannuation interest** - the trustee of the superannuation plan:
 - (a) at least 28 days before this application is filed - has been served with written notice:
 - (i) of the intention to seek orders from the court in the terms of the attached orders sought; and
 - (ii) that the trustee may object to the orders sought by giving written notice of the objection before this application is filed; and
 - (b) has not objected to the orders sought.

Your signature	Place	Date / /
Before me (signature of witness)	Full name of witness (please print)	

- Justice of the Peace
 Notary public
 Lawyer

* delete whichever is inapplicable

Part L Statement of independent legal advice

(OMIT IF NOT APPLICABLE)

- I am a lawyer entitled to practise in this Court.
- I have given the **respondent** independent legal advice as to the meaning and effect of the draft Consent Orders and explained their rights, entitlements and obligations.
- I have signed each page of the draft Consent Orders.
- I gave the **respondent** a copy of the Family Court's brochure *Marriage, Families and Separation*.
- I gave the **respondent** a copy of the Family Court's brochure *Mediation ~ Pathway to Agreement*.

Signature of lawyer	Print name
Date / /	

This application was prepared by respondent/s lawyer

Affidavit

Family Law Rules ~ RULE 15.08

Filed in:

- Family Court of Australia
 Family Court of Western Australia
 Federal Magistrates Court of Australia
 Other (specify)

Filed on behalf of:

- Applicant
 Respondent
 Other (specify, including full name)

Client ID	
File number	
Filed at	
Filed on	
Court location	
Court date	

Name of person swearing/affirming this affidavit (SEE PART C)

Part A About the parties

APPLICANT 1

Family name as used now

Given names

APPLICANT 2

Family name as used now

Given names

RESPONDENT 1

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names

Part B About the child representative (if appointed)

Child representative's family name

Given names

Firm name

Part C About you (the deponent)

What is your family name as used now? Your given names?

--	--

Male Female

--

What is your address?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents.

Part D Evidence

- Set out the facts divided into consecutively numbered paragraphs. Each paragraph should be confined to a distinct part of the subject matter.
- Attach extra page(s) if you need more space. Make sure that the page containing Part E is always the last page of the form.

I, *[insert name of applicant]* of *[insert address of applicant]*, *[insert occupation of applicant]* make oath/affirm:

1. I am the applicant in relation to an Application for Consent Orders.
2. The respondent and I have been living together in a personal relationship since *[state when de facto relationship commenced]*, and I consider her to be my de facto partner. We intend to spend the rest of our lives together as a couple.
3. On *[state date of birth of child]* I gave birth to *[state name of child]*.
4. *[Name of child]* was conceived by way of donor insemination *[optional - state whether this occurred via a clinic]* in or about *[state when conception occurred]*. **The identity of the sperm donor is not known to me/*The person who donated sperm for the purpose of my donor insemination is *[state name of sperm donor]*, and* it is not intended that he have a parenting role in relation to, or contact with, *[name of child]/*it is intended that the sperm donor has some contact with the child[describe contact]**
5. The conception of *[name of child]* was planned by *[name of respondent]* and I with a view to **creating our own family/*adding to our family*, where we would both undertake parenting roles and responsibility in relation to **him/her*. Although I gave birth to *[name of child]*, *[name of respondent]* and I both consider *[name of respondent]* to be *[name of child]*'s co-mother and a parent.
6. I request this Court make orders with the consent of *[name of respondent]* and I conferring upon *[name of respondent]* parental responsibility in relation to *[name of child]*, without requiring the preparation of a report pursuant to S.65G of the Family Law Act.

Part E

Signature

I swear*/affirm* that the contents of this affidavit are true

Signature of Deponent

Place / / 2004

Before me (signature of witness)

Full name of witness (please print)

- Justice of the Peace
- Notary public
- Lawyer

* delete whichever is inapplicable

lawyer

SAMPLE CONSENT ORDERS

Forms and instructions follow... pages 43 - 45.

FAMILY LAW ACT 1975

IN THE FAMILY COURT OF
AUSTRALIA AT SYDNEY

No. _____

Applicant mother
[insert name of birth mother]
Applicant's address
[insert address of birth mother]

BETWEEN

«*[insert name of birth mother]*»
(Applicant)

AND

«*[insert name of co parent]*»
(Respondent)

ORDER

_____/_____/200_____
[Please leave this date blank]

Prepared by the
«Applicant and Respondent»

Respondent mother
[insert name of co parent]
Respondent's address
[insert address of co parent]

FAMILY LAW ACT 1975

FAMILY COURT OF AUSTRALIA

AT SYDNEY

No. _____

BETWEEN

[insert name of birth mother]
(Applicant mother)

and

[insert name of co parent]
(Respondent co parent)

BEFORE A REGISTRAR

THE _____ DAY OF _____ 200____
[Please leave this date blank]

UPON APPLICATION TO THE COURT IT IS ORDERED:

BY CONSENT and pursuant to Part 10.4 of the Family Law Rules, orders, declarations and notations are made in terms of the Minutes of Consent attached.

By the Court

Registrar

FAMILY LAW ACT 1975

FAMILY COURT OF AUSTRALIA

AT SYDNEY

No. _____

BETWEEN

[insert name of birth mother]
(Applicant mother)

and

[insert name of co parent]
(Respondent co parent)

BEFORE A REGISTRAR

THE _____ DAY OF _____ 200____
[Please leave this date blank]

MINUTES OF CONSENT

BY CONSENT IT IS ORDERED THAT:

1. The child live with the Mother and the Co parent.
2. The Mother, *[name her]*, and the Co parent, *[name her]*, both have parental responsibility for the long term and day to day care welfare and development of *[name of child]* born *[date of birth of child]* (“the Child”);

[Sign Minutes of Orders at the bottom of each page and at the end of the Minutes]

Signed by the Applicant

Signed by the Respondent

Dated ____ / ____ /200__

Dated ____ / ____ /200__

ICLC INNER CITY LEGAL CENTRE

Inner City Legal Centre

Tel: 02 9332 1966

Fax: 02 9360 5941

PO Box 368 Darlinghurst 1300

website: www.iclc.org.au