

Human Reproductive Technology (Amendment) Bill 2015
Debate and voting arrangements

Main Object of the Bill : To amend the Human Reproductive Technology Ordinance (Cap. 561) (“the Ordinance”) to provide for a new offence in respect of publishing or distributing advertisements purporting to promote sex selection services.

First debate	: Clauses with no amendment	– Clauses 1 and 2
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Voting	: To vote on the above clauses standing part of the Bill
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Second debate	: Clauses with amendments proposed by the Secretary for Food and Health (“SFH”)	– Clauses 3 and 4
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Joint debate on the original clauses and the amendments thereto.

Debate theme : Providing for defences in respect of publishing or distributing advertisements to promote sex selection services and penalty for the new offence

Clause 3

– To add, after section 15 of the Ordinance, the proposed section 15A (2) to (8), and to renumber the proposed sections 15(3A) and (3B) of the Bill as sections 15A(1) and 15A(9) respectively, to provide for the following defences:

– it is a defence for a person charged with an offence for contravening the proposed section 15A(1) (i.e. publishing and distributing advertisements to promote sex selection services) under the following circumstances:

(a) the relevant advertisement was:

- (i) contained in a publication of a technical character for circulation amongst specified persons;
- (ii) published or distributed for academic teaching, or academic discussion, for specified persons; or
- (iii) contained in a private correspondence;

(b) if a person charged with the proposed offence showed that the conduct was engaged in by the person in the course of the person’s employment and in accordance with instructions given by the person’s employer, and at the time the conduct was engaged in, the person was not in a position to make or influence a decision regarding the conduct; and

(c) if the employer or principal is charged with the proposed offence in respect of conduct alleged to have been engaged in by the employee or agent, and the employer or principal shows that he took all such steps as were reasonable and exercised all due diligence to prevent the employee or agent from engaging in the relevant conduct;

- for a person who owns, manages or controls a physical space or website (“the relevant person”), the proposed section 15A(1) does not apply to the publication or distribution of the relevant advertisement on the space or website if :
 - (a) the space or website is used by another person (other than an officer, employee or agent of the relevant person) to effect the publication or distribution; and
 - (b) the relevant person has removed the relevant advertisement as soon as practicable after the relevant person becomes aware of the publication or distribution;
- in the proposed section 15A(1), to delete the expression “purporting to promote” and substitute “promoting” to leave the court to decide on whether the advertisement concerned promotes sex selection services using reproductive technology procedures; and
- in the proposed section 15A(9), to add the definitions of *conduct*, *correspondence* and *specified person*, and make other consequential technical amendments.

Clause 4

- To amend section 39(1) of the Ordinance to provide for penalty for a person charged with the offence for contravening the proposed section 15A(1).

Voting : To vote on the above amendments together, and then vote on the original clauses or the clauses as amended standing part of the Bill

Third debate : Amendment to the long title

Debate theme : Amendment to the long title

- To amend the long title consequential to the replacement of the expression “purporting to promote” with “promoting” in the proposed section 15A(1).

Voting : To vote on the amendment to the long title

Secretary for Food and Health’s amendments

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