

立法會
Legislative Council

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**Bills Committee on
Human Reproductive Technology Bill**

**Minutes of the twentieth meeting
held on Wednesday, 22 September 1999 at 10:45 am
in Conference Room B of the Legislative Council Building**

Members Present : Hon Cyd HO Sau-lan (Chairman)
Hon CHAN Yuen-han
Dr Hon LEONG Che-hung, JP
Hon LAW Chi-kwong, JP
Hon Ambrose LAU Hon-chuen, JP
Dr Hon TANG Siu-tong, JP

Members Absent : Hon Michael HO Mun-ka
Hon YEUNG Yiu-chung

Public Officers Attending : Mr Gregory LEUNG Wing-lup, JP
Deputy Secretary for Health and Welfare 1

Mr Eddie POON
Principal Assistant Secretary for Health and Welfare (Medical) 3

Mr Rick CHAN
Assistant Secretary for Health and Welfare (Medical) 6

Dr Thomas CHUNG Wai-hung
Principal Medical and Health Officer (3)

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Mr G A FOX
Senior Assistant Law Draftsman

Ms Carman CHU
Senior Government Counsel

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser

Ms Joanne MAK
Senior Assistant Secretary (2) 4

I. Meeting with the Administration to continue clause-by-clause examination of the Bill

Members continued the clause-by-clause examination of the Human Reproductive Technology Bill (the Bill) from Part 2 of Schedule 1.

Schedule 1 - Part 2 - 6 (Committees required to be established)

2. Miss CHAN Yuen-han anticipated that there would be a lot of work to be handled by the Ethics Committee, Inspection Committee and Investigation Committee and considered that the future Council on Human Reproductive Technology (the Council) should establish the Committees expeditiously after its formation. Deputy Secretary for Health and Welfare 1 (DSHW1) said he would take note of the suggestion. The Chairman further suggested that, on resumption of the Second Reading debate on the Bill, the Administration could give an undertaking in its speech that it would endeavor to have the three Committees formed as soon as possible following the establishment of the Council.

3. Dr LEONG Che-hung referred to the Investigation Committee and Inspection Committee and asked whether or not their members would be paid to serve on these Committees. He pointed out that as the Inspection Committee would be charged with the duty of conducting inspections to premises concerned, there was need for its members to possess the relevant expertise. In response, DSHW1 said the Administration's plan was that the Department of Health (DH) would be the

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enforcement department of the Council and there would also be a dedicated team of DH staff to provide the necessary supporting services to the Council. DSHW1 pointed out that the Inspection Committee and the Investigation Committee by nature would be management committees rather than ordinary advisory committees. It would be necessary for them to be filled by experts from the relevant fields. He further said that experts from overseas would be paid an honoraria to cover their travelling and other necessary expenses. Dr LEONG Che-hung suggested the Administration to make reference to the membership source of the investigation committee under the Human Fertilization and Embryology Authority in the United Kingdom.

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4. As regards the composition of the three named Committees, Senior Assistant Law Draftsman (SALD) invited members' attention to clauses 5 and 6 which provided that the Council could decide on its own the sizes of the Committees and their composition. It would also be up to the Council to set up other committees in addition to the three. He said that clause 5 specified that the chairperson and deputy chairperson of a committee would be appointed by the Council. DSHW1 said the Administration's thinking was that at least a legal practitioner and an obstetrician would be appointed to each of the Inspection Committee and the Investigation Committee. However, details of the composition would have to be worked out by the Council. Dr TANG Siu-tong was concerned whether the Council could effectively supervise the work of the DH staff seconded to the Council since they would not be directly responsible to the Council. DSHW1 explained that the staff would also be accountable to the Council and in fact the Director of Health would be one of the members of the Council.

5. Dr LEONG Che-hung asked whether members of the Ethics Committee, Inspection Committee and Investigation Committee would be subject to any legal liability in the future while performing their duties. SALD replied that members of the Council and of its committees were protected by law from legal liabilities in the case of causing damages while performing their duties.

6. In response to Mr Ambrose LAU Hon-chuen's question, DSHW1 explained that "authorized persons", as defined under clause 2 in Part 1, were provided power of entry and inspection of licensed premises and other premises if there were reasonable grounds for believing that an offence against the Ordinance was being or had been suspected committed. He said that the power of the authorized persons to enter premises was also defined under clauses 34 and 35.

7. Members completed the clause-by-clause examination of the Bill.

Draft Committee Stage amendments (CSAs) to the Bill

8. DSHW1 said as earlier agreed, the Administration would draft the CSAs

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members intended to move in order to ensure consistency in the drafting style.

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9. Dr LEONG Che-hung remained of the view that the Bill could not reflect the legislative intent which was to provide reproductive technology (RT) procedures to infertile couples only. Moreover, he considered that the drafting of the definition of surrogate mother would lead to confusions of concubines with surrogate mothers. He said he was most concerned about these two points and he had already elaborated his views on these at previous meetings. DSHW1 agreed to review the drafting of the relevant parts in the Bill to seek improvements. However, Mr LAW Che-kwong expressed reservations about the need to restrict the provision of RT procedures to infertile couples only. The Chairman said she recollected that the majority view of the Bills Committee was in support of the policy that RT procedures should only be provided to infertile couples. However, members understood that in some circumstances exceptions had to be made for fertile couples, who were certified by doctors to have justifiable needs for RT services, such as for the purpose of avoiding the birth of a child with a severe genetic disease. The Administration therefore had been requested to take this into account and provide exceptions in the Bill for circumstances in which RT procedures might be provided to couples who could carry out reproduction normally. She said that members in previous discussions also appreciated the difficulty involved in the drafting of the definition of "infertility" and agreed that, where necessary, recommendations from medical practitioners were required in order to support that the couple concerned had genuine need for RT services. In this connection, guidelines should be provided in the code of practice of the Council for medical practitioners.

10. The Bills Committee agreed that members who wanted to move CSAs should provide their drafting instructions to the Clerk by 12 October 1999 for onward transmission to the Administration. The next meeting would be held when the draft CSAs were ready for members' consideration.

(Post-meeting note : Drafting instructions were subsequently provided by Dr LEONG Che-hung, Miss CHAN Yuen-han and Mr Michael HO Mun-ka for transmission to the Administration on 14 October 1999.)

11. The meeting ended at 12:00 noon.

Legislative Council Secretariat

14 February 2000