

Bills Committee on Human Reproductive Technology Bill
Checklist of outstanding issues
(as at 20 January 1999)

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
1. To include "This Ordinance binds the Government" in the Bill (This provision was included in the former bill under the same name).	-	<u>20.1.99</u> Adm agreed to move CSA to that effect.
2. Licensee and person responsible		
(a) Prohibiting the licensee and person responsible for carrying out reproductive technology (RT) to be the same person.	21(2)	<u>23.9.98</u> Adm to reconsider the need for the licensee and person responsible to be two separate persons. <u>20.1.99</u> Adm needs more time to consider the policy. <u>20.1.99</u> Dr LEONG indicated his stance. BC to discuss its stance at the next meeting.
(b) Definition of "suitable practices" carried out by person responsible and to be supervised by licensee.	22(1)(d)	<u>14.10.98</u> The provision is ambiguous. Adm to consider the drafting aspect.
(c) Qualification of person responsible		<u>18.11.98</u> Members agreed that the qualification should be specified in subsidiary legislation or COP. <u>20.1.99</u> Adm considered that the qualification set out in the Bill and the COP was adequate.

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>3. Membership of the Council on Human Reproductive Technology (the Council)</p> <p>(a) prohibiting registered medical practitioners to be the chairperson and deputy chairperson.</p>	<p>3(2)</p> <p>3(2)(a) & (b)</p>	<p><u>20.1.99</u> Subject to the recommendation of the BC, Adm will move CSA to repeal the clause.</p>
<p>4. Code of Practice (COP)</p>	<p>7</p>	<p><u>23.9.98</u> Adm to ask the Provisional Council on RT (PCRT) to provide a copy of the draft code for members' reference.</p> <p><u>20.1.99</u> A copy of COP was provided. Adm to brief members at the next meeting.</p>
<p>5. Limiting RT services to married couples</p>	<p>13(5)</p>	<p><u>23.9.98</u> Reasons for this provision explained by the Adm.</p> <p><u>29.10.98</u> Adm confirmed the policy did not contravene legislation on discrimination.</p> <p><u>18.11.98</u> HA was requested to provide details of overseas case law. In response, Professor Christopher Harnes of the Chinese University of Hong Kong wrote to the Fertility Society of Australia for further details but the Society has not yet responded to his letter of 20.11.98.</p>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>6. Limitation on eggs and sperms donation</p> <p>Points to follow up - a centralized record for all sperm/egg bank might be desirable to ensure that the limit of three successful inseminations is well-observed</p>	-	<p><u>23.9.98</u> Adm explained that to reduce chance of incest, there is a limit of three successful inseminations in respect of each donor.</p>
<p>7. Artificial Insemination by Husband (AIH)</p> <p>(a) AIH should be allowed without specific statutory control.</p> <p>(b) selection of sex under AIH</p>	(para 4(b))	<p><u>14.10.98</u> Reasons for this provision explained by the Adm.</p> <p><u>29.10.98</u> Mr Michael HO is concerned about the drafting aspect of the relevant provisions.</p> <p><u>8.12.98</u> Adm to clarify whether the procedure is prohibited under the Bill.</p> <p><u>20.1.99</u> Adm advised that the prohibition could be specified under section 2(2)(a).</p>
<p>8. Right to access information</p> <p>(a) Application of clause 32 regarding disclosure in interests of justice</p> <p>(b) disclosure of donor's identity</p>	<p>30-33</p> <p>32</p>	<p><u>29.10.98</u> Legal opinion set out in LC Paper No. LS57/98-99 discussed. Adm to review the reference to section 30(2)(i) and (ii).</p> <p><u>8.12.98</u> Members held different views.</p> <p><u>20.1.99</u> BC to discuss its stance at the next meeting.</p>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>9. Surrogacy</p> <p>(a) definition of “commercial” surrogacy and payment</p> <p>(b) protection for a surrogate mother during pregnancy</p>	<p>12, 15, 16</p> <p>2 “payment”, 15</p>	<p><u>29.10.98</u> Briefly discussed.</p> <p><u>8.12.98</u> Various scenarios discussed, including arrangements made with a surrogate mother outside HK.</p> <p><u>5.1.99</u> LC Paper No. CB(2) 940/98-99(02) regarding definition of payment discussed. Members also discussed whether commercial dealing should be vetted by the Council, and whether the vetting should be made before or after surrogacy.</p> <p><u>8.12.98</u> Adm to look into labour related laws to ensure that working surrogate mothers will enjoy the maternity benefits conferred in law.</p> <p><u>20.1.99</u> Adm confirmed protection for surrogate mother was adequate under existing labour laws.</p>
<p>10. Imported sperm</p>		<p><u>18.11.98</u> Adm to consider a monitoring mechanism and to provide information on overseas practices.</p> <p><u>20.1.99</u> PCRT considered the issue warranted attention.</p>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>11. Record on RT activities</p> <p>(a) types of information to be released</p>		<p><u>18.11.98</u> LC Paper No. CB(2)660/98-99(01) provided by the Adm discussed. Mr Michael HO opined that details should be decided now instead of by the future Council.</p>
<p>12. Selection of sex</p> <p>(a) sex selection is only acceptable for medical reasons</p>	<p>13(3)</p>	<p><u>8.12.98</u> LC Paper No. CB(2) 801/98-99(02) on overseas practice discussed.</p> <p><u>20.1.99</u> LC Paper No. CB(2) 979/98-99(01) setting out deliberations of the PCRT discussed.</p>
<p>13. Limitation on cryopreservation</p> <p>(a) policy on cryopreservation</p> <p>(b) storage limit of gamates set at aged 55.</p>		<p><u>5.1.99</u> LC Paper No. CB(2) 801/98-99(02) discussed.</p> <p><u>5.1.99</u> Adm to re-consider the policy: whether cryopreservation should be allowed for medical reasons only; the delineation of cryopreservation, semen donation and RT procedure.</p> <p><u>20.1.99</u> PCRT considered it may be necessary to make regulations or guidelines in COP in future to monitor and control the service.</p> <p><u>5.1.99</u> Adm to clarify whether the policy constitute discrimination against age.</p>

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List of completed items

(as at 20 January 1999)

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
1. Licensee and person responsible		
(a) Licensee and person responsible and system of checks and balance practices in other countries.	-	<u>29.10.98</u> Completed discussion on LC Paper No. CB(2) 503/98-99(01).
(b) Types of health care professionals qualified to carry out various RT procedures in other countries.	-	<u>29.10.98</u> Completed discussion on LC Paper No. CB(2) 503/98-99(01).
(c) In the case where licensee and person responsible for carrying out RT procedures are a married couple, whether the husband or wife can bear witness against his/her spouse in court in the event of non-compliance with RT procedures.	-	<u>29.10.98</u> Completed discussion on LC Paper No. LS57/98-99.
2. Ceiling on number of RT procedures commissioned by married couple.	-	<u>23.9.98</u> Adm clarified that there is no limit.
3. A statutory body should be set up to license medical institutes to carry out RT procedures.	(para 4(a))	<u>14.10.98</u> Members raised no query on the issue.
4. Right to access information	30-33	
(a) Legal distinction between a child born through RT and a genetic child in the Parent and Child Ordinance	-	<u>29.10.98</u> Completed discussion on LC Paper No. CB(2) 503/98-99(01).

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>4(b) Overseas practices on right to access information by persons born following a RT procedure</p>		<p><u>29.10.98</u> Information on overseas practices set out in LC Paper No. CB(2) 503/98-99(01) discussed.</p> <p><u>8.12.98</u> Practice in UK and comparison between HK and overseas laws set out in LC Paper No. CB(2) 801/98-99 (02) discussed.</p> <p><u>5.1.99</u> LC Paper No. CB(2) 940/98-99(01) regarding USA practice discussed.</p>
<p>5. Membership of the Council on Human Reproductive Technology</p> <p>(a) membership to be apportioned equally between males and females by administrative means.</p> <p>(b) lay person who had undergone RT procedures to be appointed as members.</p> <p>(c) licensee and person responsible to be appointed as members</p>	<p>3(2)</p> <p>(para 4(g))</p>	<p><u>23.9.98</u> Briefly discussed.</p> <p><u>18.11.98</u> Members raised no query.</p> <p><u>18.11.98</u> Reasons against the proposal explained by Adm in LC Paper No. CB(2)660/98-99(01).</p> <p><u>18.11.98</u> Adm explained its reasons against the proposal in LC Paper No. CB(2)660/98-99(01).</p>
<p>6. Embryo research should be subject to control.</p>	<p>(para 4(f))</p>	<p><u>18.11.98</u> Members agreed to the policy in principle.</p>

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
7. Submissions and Adm's response		<u>18.11.98</u> LC Paper No. CB(2)660/98-99(01) discussed.
8. Surrogacy (a) viewpoints considered by the Adm before finalizing the policy (b) proposal to confine a surrogate mother to a woman who is a HK permanent resident. (c) a surrogate mother should be a woman who has given birth to a child before. (d) statutory control in overseas countries	(para 4(e))	<u>18.11.98</u> Paper provided by Adm discussed. <u>5.1.99</u> LC Paper No. CB(2) 940/98-99(02) discussed. Members commented that there were practical difficulties to implement the proposal. <u>8.12.98</u> Members agreed that the requirement be written in COP. <u>18.11.98</u> Paper provided by Adm discussed. <u>8.12.98</u> Practice in UK set out in LC Paper No. CB(2) 801/98-99(02) discussed. <u>5.1.99</u> LC Paper No. CB(2) 940/98-99(01) regarding US practice discussed.
9. Record on RT activities (a) pooled data		<u>18.11.98</u> LC Paper No. CB(2)660/98-99(01) provided by the Adm discussed. Members supported the proposal in principle.