

Bills Committee on Human Reproductive Technology Bill
Checklist of outstanding issues
(as at 28 April 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 different persons. <u>20.1.99</u> Adm needs more time to consider the policy. <u>20.1.99</u> Dr LEONG indicated his stance. Adm to draft CSA. <u>9.2.99</u> Chairman and Mr Michael HO indicated their stance. <u>3.3.99</u> Other members to indicate their stance at the next meeting. <u>14.4.99</u> Adm to move CSA.
(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.

<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><u>9.2.99</u> Mr Michael HO suggested that the requirement should not be explicitly written in law. Adm to move CSA.</p>
<p>4. Limiting RT services to infertile couples</p> <p>(a) 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. On 20.11.98 Professor Christopher Haines of the Chinese University of Hong Kong wrote to the Fertility Society of Australia for further details. The Society has responded and the information obtained was issued to members vide LC Paper No. CB(2) 1601/98-99 on 29.3.99.</p> <p><u>3.3.99</u> SALA confirmed the policy did not contravene the Sex Discrimination Ordinance.</p> <p><u>14.4.99</u> SALA advised that the policy did not constitute sex discrimination based on the information obtained from Australia.</p>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
(b) <u>Limiting RT services to infertile couples</u>		<p><u>19.3.99</u> Adm explained the problems envisaged in defining “infertility”.</p> <p><u>14.4.99</u> Adm tabled draft CSAs for members’ consideration. (The draft CSAs were subsequently issued vide LC Paper No. CB(2) 1770/98-99 (01)). Members to discuss the draft CSAs.</p> <p><u>26.4.99</u> Revised CSA (LC Paper No. CB(2) 1784/98-99(02)) discussed.</p> <ul style="list-style-type: none"> - Members agreed revising “2 registered medical practitioners” to “1 registered medical practitioner” in Clause 13(5)(b). - Dr LEONG Che-hung proposed adding “having completed all reasonable investigations” after “infertile” in Clause 13(5)(b) and leaving the interpretation of “all reasonable investigations” to be dealt with in COP. - Adm to state the principle of limiting RT services to infertile couples in the “Long Title” of the Bill.
<p>5. Artificial Insemination by Husband (AIH)</p> <p>(a) AIH should be allowed without specific statutory control.</p>	(para 4(b))	<p><u>14.10.98</u> Reasons for this provision explained by the Adm.</p>

<u>Issues</u>	<u>Clause (LegCo Brief)</u>	<u>Position</u>
(b) selection of sex under AIH		<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><u>9.2.99</u> Some members suggested that the prohibition should be explicitly written in law. Adm to consider the drafting aspect.</p> <p><u>14.4.99</u> Adm to move CSA to specify under clause 2(2)(a) that artificial insemination is not an RT procedure except if it is coupled with sex selection.</p>
<p>6. 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>9.2.99</u> Dr LEONG held the view that disclosure of donor's identity should not be allowed in any circumstances. Adm to draft CSA. Mr Michael HO will reconsider the issue.</p>

<u>Issues</u>	<u>Clause</u>	<u>Position</u>
(c) Cases where there were no genetic donations from outside parties in the process of the application of RT procedure	(LegCo Brief)	<p><u>3.3.99</u> Other members to indicate their stance at the next meeting.</p> <p><u>14.4.99</u> Adm to re-draft clauses 30-33 taking into account the views expressed by Dr LEONG Che-hung and Mr Micheal HO.</p> <p><u>14.4.99</u> Members agreed that clause 31(4) should not apply to such cases. Adm to re-draft Part V.</p>
7. Surrogacy (a) definition of “commercial” surrogacy and payment	12, 15, 16 2 “payment”, 15	<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>
(b) marital status of a surrogate mother	13(5)	<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>9.2.99</u> Adm pointed out that the requirement for a surrogate mother to be a party to a marriage might be too strict. Members to consider the policy.</p>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
		<u>14.4.99</u> Members agreed that a surrogate mother needed not be a party to a marriage. Adm to re-draft clause 13(5).
(c) Definition of “surrogate mother”	2	<u>14.4.99</u> Adm to consider the drafting aspect of the definition of “surrogate mother” under “Interpretation” of the Bill.
8. Imported sperm		<u>18.11.98</u> Adm to consider a monitoring mechanism and to provide information on overseas practices. <u>20.1.99</u> PCRT considered the issue warranted attention. <u>26.4.99</u> Adm to consider the policy adopted in Taiwan on this issue.
9. Record on RT activities (a) types of information to be released		<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. <u>9.2.99</u> Mr Michael HO considered that the information to be released should be specified in law.

<u>Issues</u>	<u>Clause (LegCo Brief)</u>	<u>Position</u>
10. Limitation on cryopreservation		<p><u>5.1.99</u> LC Paper No. CB(2) 801/98-99(02) discussed.</p>
(a) policy on cryopreservation		<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>
11. Principle of the Bill		<p><u>23.2.99</u> Adm was requested to consider including a clause setting out that RT procedure should only be allowed for couples who have proven to be unable to conceive naturally.</p> <p><u>3.3.99</u> Members agreed to the principle of limiting RT services to infertile couples and to put it in law. Adm to seek definition of “infertility” from local and overseas specialists and medical institutions, and to consider the follow-up actions required.</p> <p><u>19.3.99</u> Adm explained to members the problems relating to the definition of “infertility”. Members discussed and requested Adm to follow up. (See item 4(b) for details of the follow-up actions taken.)</p>

Bills Committee on Human Reproductive Technology Bill
List of completed items
(as at 28 April 1999)

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>1. Licensee and person responsible</p> <p>(a) Licensee and person responsible and system of checks and balance practices in other countries.</p> <p>(b) Types of health care professionals qualified to carry out various RT procedures in other countries.</p> <p>(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.</p> <p>(d) Qualification of person responsible</p>	<p>-</p> <p>-</p> <p>-</p>	<p><u>29.10.98</u> Completed discussion on LC Paper No. CB(2) 503/98-99(01).</p> <p><u>29.10.98</u> Completed discussion on LC Paper No. CB(2) 503/98-99(01).</p> <p><u>29.10.98</u> Completed discussion on LC Paper No. LS57/98-99.</p> <p><u>18.11.98</u> Members agreed that the qualification should be specified in subsidiary legislation or COP.</p> <p><u>20.1.99</u> Adm considered that the qualification set out in the Bill and the COP was adequate.</p> <p><u>14.4.99</u> Members raised no more questions.</p>
<p>2. Ceiling on number of RT procedures commissioned by married couple.</p>	<p>-</p>	<p><u>23.9.98</u> Adm clarified that there is no limit.</p>
<p>3. A statutory body should be set up to license medical institutes to carry out RT procedures.</p>	<p>(para 4(a))</p>	<p><u>14.10.98</u> Members raised no query on the issue.</p>

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>4. Right to access information</p> <p>(a) Legal distinction between a child born through RT and a genetic child in the Parent and Child Ordinance</p> <p>4(b) Overseas practices on right to access information by persons born following a RT procedure</p>	<p>30 – 33</p>	<p><u>29.10.98</u> Completed discussion on LC Paper No. CB(2) 503/98-99(01).</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>6. Embryo research should be subject to control.</p>	<p>3(2)</p> <p>(para 4(g))</p> <p>(para 4(f))</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><u>18.11.98</u> Members agreed to the policy in principle.</p>

<u>Issues discussed</u>	<u>Clause</u> <u>(LegCo Brief)</u>	<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	(para 4(e))	<p><u>18.11.98</u> Paper provided by Adm discussed.</p> <p><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.</p> <p><u>8.12.98</u> Members agreed that the requirement be written in COP.</p> <p><u>18.11.98</u> Paper provided by Adm discussed.</p> <p><u>8.12.98</u> Practice in UK 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 US practice discussed.</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>
(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		
(e) protection for a surrogate mother during pregnancy		

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
		<u>9.2.99</u> Members raised no more questions.
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.
10. Limitation on cryopreservation (a) storage limit of gamates set at aged 55.		<u>5.1.99</u> Adm to clarify whether the policy constitute discrimination against age. <u>9.2.99</u> Adm clarified that there was no discrimination.
11. Code of Practice (COP) (a) Chapter II - staff	7	<u>9.2.99</u> Commenced study on COP and completed examination of chapters I to IV. <u>23.2.99</u> Mr Michael HO expressed concern that the requirement in paragraph 2.8 of COP might deter certain centres from practising RT procedures. <u>19.3.99</u> Members to provide a list by the next meeting setting out which items of the draft COP on which members have strong views and items which members consider should be included in the Bill instead of in the COP.

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
		<p><u>14.4.99</u> No comments had been received by the Secretariat from members. Members agreed that the Bill and the draft COP should be dealt with separately and that the Bills Committee should concentrate its efforts in scrutinizing the Bill.</p>
<p>12. 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>-</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><u>14.4.99</u> Members accepted the arrangements.</p>
<p>13. Selection of sex</p> <p>(a) sex selection is only acceptable for medical reasons</p> <p>(b) a list of severe sex-linked genetic disease</p>	<p>13(3)</p>	<p><u>8.12.98</u> LC Paper No. CB(2) 801/98-99(02) discussed. Members agreed to the policy in principle.</p> <p><u>8.12.98</u> LC Paper No. CB(2) 801/98-99(02) discussed. Some members questioned why the list could not be drawn up.</p> <p><u>20.1.99</u> LC Paper No. CB(2) 979/98-99(01) setting out deliberations of the PCRT discussed.</p>

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
		<p><u>3.3.99</u> LC Paper No. CB(2) 1390/98-99(01) setting out reasons for including the list in COP and not in subsidiary legislation, and views of local and overseas specialists discussed. Members held different views. Adm to prepare CSA for members' consideration.</p> <p><u>19.3.99</u> LC Paper No. CB(2) 1516/98-99(03) discussed. Adm to consider the drafting aspect of the proposed amendment to Clause 13(3)(b).</p> <p><u>26.4.99</u> LC Paper No. CB(2) 1784/98-99(02) discussed. CSA for Clause 13(3) agreed.</p>