

**Bills Committee on Human Reproductive Technology Bill**  
**Checklist of outstanding issues**  
**(as at 8 December 1998)**

<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>23.9.98</u> Adm to look into the matter again.  <u>14.10.98</u> Adm needs more time to consider the policy.
2. Licensee and person responsible  (a) Prohibiting the licensee and person responsible for carrying out reproductive technology (RT) to be the same person.  (b) Definition of “suitable practices” carried out by person responsible and to be supervised by licensee.  (c) Qualification of person responsible	21(2)      22(1)(d)	<u>23.9.98</u> Adm to reconsider the need for the licensee and person responsible to be two separate persons.  <u>14.10.98</u> Adm needs more time to consider the policy.  <u>14.10.98</u> The provision is ambiguous. Adm to consider the drafting aspect.  <u>18.11.98</u> Members agreed that the qualification should be specified in subsidiary legislation or COP.
3. Membership of the Council on Human Reproductive Technology (the Council)  (a) prohibiting registered medical practitioners to be the chairperson and deputy chairperson.	3(2)   3(2)(a)&(b)	<u>23.9.98</u> Adm to reconsider the provision.  <u>14.10.98</u> Adm needs more time to consider the policy.

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
3(b) licensee and person responsible to be appointed as members		<p><u>18.11.98</u> Adm explained its reasons against the proposal in LC Paper No. CB(2)660/98-99(01). Adm to provide further elaborations.</p>
4. Code of Practice (COP)	7	<p><u>23.9.98</u> Adm to ask the Provisional Council on RT to provide a copy of the draft code for members' reference.</p> <p><u>14.10.98</u> A draft table of content was provided.</p> <p><u>8.12.98</u> Adm to ask the Provisional Council on RT to provide a full set of the draft COP.</p>
5. Limiting RT services to married couples	13(5)	<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> Request HA to provide details of overseas case law.</p> <p>(letter sent on 19.11.98 requesting information by 2.12.98. Reminder sent on 22.12.98)</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) 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> <p><u>29.10.98</u> Mr Michael HO is concerned about the drafting aspect of the relevant provisions.</p>
<p>8. Right to access information</p> <p>(a) Right to access information by persons born following a RT procedure</p> <p>(b) Application of clause 32 regarding disclosure in interests of justice</p>	<p>30-33</p> <p>32</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 Hong Kong and overseas laws set out in LC Paper No. CB(2) 801/98-99 (02) discussed. Adm to provide information on USA practices.</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(a)(i) and (ii).</p>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>9. Surrogacy</p> <p>(a) definition of “commercial” surrogacy</p> <p>(b) viewpoints considered by the Adm before finalizing the policy</p> <p>(c) statutory control in overseas countries</p> <p>(d) protection for a surrogate mother during pregnancy</p> <p>(e) arrangement made with a surrogate mother outside Hong Kong</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.</p> <p><u>18.11.98</u> Paper provided by Adm discussed.</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. Adm to provide information on surrogacy arrangement in the USA.</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>8.12.98</u> Adm to provide a paper on the jurisdiction of the Hong Kong Government in respect of the various scenarios quoted by members regarding commercial surrogacy arrangements partly made in Hong Kong and the mainland.</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>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>11. Record on RT activities</p> <p>(a) pooled data</p> <p>(b) 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. Members supported the proposal in principle.</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) selection of sex under AIH</p> <p>(b) 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>8.12.98</u> Adm to clarify whether the procedure is prohibited under the Bill.</p> <p><u>8.12.98</u> Adm to provide papers setting out deliberations of the Provisional Council on RT on the issue.</p>
<p>13. Limitation on cryopreservation</p>		<p><u>8.12.98</u> LC Paper No. CB(2)801/98-99(02) provided but not yet discussed.</p>

**Bills Committee on Human Reproductive Technology Bill**  
**List of completed items**  
**(as at 8 December 1998)**

<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>-</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>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>
<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>(b) disclosure of donor's identity</p>	<p>-</p>	<p><u>29.10.98</u> Completed discussion on LC Paper No. CB(2) 503/98-99(01).</p> <p><u>8.12.98</u> Members held different views.</p>

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<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>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>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>
<p>7. Submissions and Adm's response</p>		<p><u>18.11.98</u> LC Paper No. CB(2)660/98-99(01) discussed.</p>
<p>8. Surrogacy</p> <p>(a) a surrogate mother should be a woman who has given birth to a child before.</p>	<p>(para 4(e))</p>	<p><u>8.12.98</u> Members agreed that the requirement be written in COP.</p>