

**Discussion on limiting reproductive technology services  
to infertile couples**

**Introduction**

This paper sets out the Administration's view on the suggestion of adding an explicit clause in the Human Reproductive Technology Bill (the "Bill") to limit the provision of Reproductive Technology (RT) services to infertile couples, and invites members' comments on the subject.

**Policy stance on the provision of RT services**

2. As it is the Government's policy that RT should not be encouraged, we therefore have no objection to including an explicit clause in the Bill that RT services should only be extended to infertile couples.

**Considerations**

3. If we were to adopt the approach as stated in paragraph 2, the following points however should be considered:

(a) we have to consider how to appropriately define "infertility" in the Bill and what procedures should be required to ascertain the infertility of a couple; and

(b)by adding an explicit clause to reflect the policy directive may also affect the rules on governing the storage of gametes. The Bureau will be happy to elaborate on this point at the meeting.

### **An alternative approach**

4. Apart from the option mentioned in paragraph 2, an alternative approach would be to add an enabling clause to the Bill so as to allow SHW to set out restrictive criteria on the provision of RT services in the future if abusive use of RT services is detected. The merit of this approach is that it provides a greater degree of flexibility in the legislation without unduly ruling out those marginal but genuine cases which could benefit from RT services.

### **Advice sought**

5. Members' views are sought on the desirability of adding an explicit clause in the Bill to limit RT services strictly to infertile couples.

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- (2) This section shall not be taken as making lawful—
- discrimination in the arrangements for determining the persons entitled to vote in an election of members of the body, or otherwise to choose the persons to serve on the body; or
  - discrimination in any arrangements concerning membership of the organization itself.

#### 56. Indirect access to benefits, etc.

(1) References in this Ordinance to the affording by any person of access to benefits, facilities or services are not limited to benefits, facilities or services provided by that person himself, but include any means by which it is in that person's power to facilitate access to benefits, facilities or services provided by any other person ("actual provider").

(2) Where by any provision of this Ordinance the affording by any person of access to benefits, facilities or services in a discriminatory way is in certain circumstances prevented from being unlawful, the effect of the provision shall extend also to the liability under this Ordinance of any actual provider.

#### 56A. Double benefits for married persons

(1) For avoidance of doubt, it is hereby declared that nothing in Part III, IV or V renders it unlawful for a person to refuse or omit to provide a benefit or allowance relating to housing, education, air-conditioning, passage or baggage to a married person if the married person's spouse receives or has received the same or a similar benefit or allowance, whether from the first-mentioned person or from another.

(2) In this section—  
 "allowance" (津貼) includes part of an allowance;  
 "benefit" (福利) includes part of a benefit.

(Added 71 of 1997 s. 5)

#### 56B. Reproductive technology

(1) Nothing in Part IV or V renders unlawful any discrimination between persons of different marital status arising from the provision of any reproductive technology procedure.

(2) In this section, "reproductive technology procedure" (生育科技程序) means any medical treatment or scientific intervention directed at assisting human reproduction by artificial means, and includes in vitro fertilisation, artificial insemination, gender selection and manipulation of gametes or embryos outside the body.

(Added 71 of 1997 s. 5)

- (2) 本條不得被視為使以下歧視屬合法——
- 在為決定誰人有權在選舉該團體成員中投票或以其他方式選擇誰人擔任該團體成員時作出的安排上所作出的歧視；或
  - 在關於該組織本身的成員資格安排上所作出的歧視。

#### 56. 間接獲得或享用利益等

(1) 在本條例中提述由任何人讓他人可獲得或享用利益、設施或服務，並不局限於由該人自己所提供的利益、設施或服務，而是包括該人有權就任何其他人（“實際提供者”）所提供的利益、設施或服務而提供方便，以讓他人可獲得或享用該等利益、設施或服務的手段。

(2) 凡任何人以歧視性的方式讓他人可獲得或享用利益、設施或服務，但因本條例某條文而在某些情況下不成為違法，則該條文的效力亦延伸適用於任何實際提供者在在本條例下的法律責任。

#### 56A. 已婚人士的雙重福利

(1) 為免生疑問，現聲明：如任何人拒絕或沒有為已婚人士提供關乎房屋、教育、空氣調節、往外地交通或行李的福利或津貼，而其配偶正接受或已接受不論從前述人士或其他人提供的相等或相似的福利或津貼，則第 III、IV 或 V 部並不將該行為定為違法。

(2) 在本條例中——  
 “津貼” (allowance) 包括津貼的部分；  
 “福利” (benefit) 包括福利的部分。

(由 1997 年第 71 號第 5 條增補)

#### 56B. 生育科技

(1) 第 IV 或 V 部並不將因提供生育科技程序而產生的，在婚姻狀況不同的人之間的待遇差別定為違法。

(2) 在本條中，“生育科技程序” (reproductive technology procedure) 指旨在藉人工方法協助人類生育的醫療處理或科學干預，並包括體外授精、人工受精、性別選擇及從事體外更改配子或胚胎手術。

(由 1997 年第 71 號第 5 條增補)