

**Further information requested by LegCo members in
the Bills Committee meeting on 29 October 1998**

(A) *Further information regarding the overseas experience of access to information*

In Victoria of Australia, the spirit of legislation regarding access of information in relation to Reproductive Technology (RT) is to ensure that every possible effort is made to provide identifying information about the biological linkages arising from donor procedures. With the consent of the donor, the parents may apply to the Central Register of the Infertility Treatment Authority (Register) for identifying and non-identifying information of the donor; the donor may apply to the Register for identifying and non-identifying information of the person born as a result of donor RT treatment with appropriate consent and counselling; and the person born as a result of donor RT treatment may apply to the Register for identifying and non-identifying information of the donor after appropriate counselling. Under the Infertility Treatment Act 1995, it is a matter of right for the offspring to receive any information on the Register when he/she is over age 18 years.

Under the Western Australia Act, a Donor Register has been established which contains information including identifying information about donors and recipients of human reproductive material. Offspring only has a right of access to non-identifying information about the donor

of reproductive material, however, there may be access to identifying information with consent of all parties.

(B) Viewpoints considered by the Administration before finalizing the policy regarding surrogacy

The issue of surrogacy had been discussed in the former Committee on Scientific Assisted Human Reproduction (SAHR). The issue was re-examined by the Provisional Council of RT (PCRT). It was noted that the former Committee on SAHR only took into consideration surrogacy involving RT procedures. The Working Group of the RT Bill of PCRT has made reference to the UK Surrogacy Arrangement Act 1985 which did not distinguish whether the surrogacy arrangement involved RT procedures or not. The PCRT agreed that commercial surrogacy, whether RT-related or non-RT related, should be criminalized.

The PCRT also discussed the issue of payment and agreed that “lost of earning” arising from a surrogacy arrangement should not be reimbursable so as to reflect the policy to discourage surrogacy. Problems of the legal consequence of the child born in consequence of surrogacy and the legal procedures have also been discussed. It was noted that the Parent and Child Ordinance have provisions to deal with these problems. PCRT had no objection to the recommendations made by the Committee on SAHR.

(C) Statutory control of surrogacy in overseas countries

In UK, surrogacy is governed by the Surrogacy Arrangement Act 1985. With the enactment of the Human Fertilisation and Embryology Act 1990, the Surrogacy Arrangement Act 1985 was amended to make the surrogacy arrangement legally unenforceable.

In Australia, legal regulation on surrogacy is different from State to State. In most of the States, surrogacy arrangement is not legally enforceable. Surrogacy is illegal in Queensland. In Western Australia, there is currently no legislation specifically addressing surrogacy. There are sanctions against surrogacy in South Australia and Victoria so it is not performed there by doctors.