



中華人民共和國香港特別行政區政府總部食物及衛生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

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20 October 2015

Ms Maisie LAM
Clerk to Bills Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms Lam,

Human Reproductive Technology (Amendment) Bill 2015

As per the discussion of the Bills Committee meeting on 5 October 2015, the first batch of draft CSAs is enclosed.

Yours sincerely,

(Ms Wendy AU)
for Secretary for Food and Health

Encl.

c.c.

Department of Health (Attn.: Dr Sammy NG)

Department of Justice (Attn.: Mr Jonathan LUK)

**Bills Committee on
Human Reproductive Technology (Amendment) Bill 2015**

**Draft Committee Stage Amendments
(Draft as at 20 October 2015)**

Members are invited to examine the draft Committee Stage Amendments (“CSAs”) to be proposed by the Government as marked in the relevant parts of the Human Reproductive Technology (Amendment) Bill 2015 (**Annex**). The reasons for proposing these amendments are set out in the footnotes. The proposed CSAs may be subject to further revision.

**Food and Health Bureau
Department of Health
Department of Justice
October 2015**

Human Reproductive Technology (Amendment) Bill 2015

Draft Committee Stage Amendments

After section 15(8) -

Add

“(3A9) A person must not cause to be published or distributed, or knowingly publish or distribute, an advertisement purporting to promote promoting sex selection services, whether or not the services are provided in Hong Kong¹.

(10) It is a defence for a person charged with an offence for contravening subsection (9) to show that the advertisement is—

(a) contained in a publication of a technical character for circulation amongst specified persons²;

(b) made in academic teaching or discussion for specified person; or

(c) contained in a private correspondence published or distributed electronically otherwise than in the course of business of promoting sex selection services (whether or not carried on by the person charged with the offence)³.

¹ This CSA has been discussed and agreed among the members as well as the legal advisor of the Bills Committee at the previous meetings (6 July and 5 October 2015) (para 5 of LC Paper No. CB(2)2153/14-15(01)).

² The Government has taken into consideration the suggestions raised by the Bills Committee Members at the previous meetings and the views received at the meeting with deputations and drafted this Government CSA by modelling similar provisions of the Undesirable Medical Advertisements Ordinance (Cap. 231) with a view to providing defence for presence of sex selection advertisements in activities and publications which are of an academic or technical character (such as a lecture) (para 6(a) of LC Paper No. CB(2)2153/14-15(01)).

³ As requested by the Bills Committee members, the Government has drafted this CSA (including the proposed clause 11, which qualifies the proposed clause 10(c)) with a view to providing a defence for

(11) Subsection (10)(c) does not apply to the provision of a hyperlink to the advertisement unless the person charged with the offence did not (whether by the person or by any officer, employee or agent of the person)—

(a) devise the contents of the advertisement, either in whole or in part; or

(b) select, add to, modify or otherwise exercise control over the contents of the advertisement.

(12) In subsection (10)(c), a reference to an advertisement contained in a correspondence includes an advertisement to which a hyperlink is linked in a correspondence.

(~~3B~~13) In subsection (3A) this section—

correspondence (通訊) includes correspondence on the Internet;

sex selection services (性別選擇服務) means services provided for selecting the sex of an embryo by means of a reproductive technology procedure, whether directly or indirectly (including by the implantation of an embryo of a particular sex in the body of a woman);”

private correspondences for non-commercial purposes and the act of hyperlink sharing for non-commercial purposes (para 6(b) of LC Paper No. CB(2)2153/14-15(01)).

specified person (訂明人士) means any of the following

persons—

(a) registered medical practitioners;

(b) the medical and para-medical staff of—

(i) a hospital or maternity home to which the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165) applies;

(ii) a clinic to which the Medical Clinics Ordinance (Cap. 343) applies;

(iii) a hospital, maternity home or clinic maintained by the Government, the Chinese University of Hong Kong or the University of Hong Kong;

(iv) a hospital, maternity home or clinic managed or controlled by the Hospital Authority established under the Hospital Authority Ordinance (Cap. 113);

(v) premises to which a license granted under the Human Reproductive Technology Ordinance (Cap. 561) relates .”

In the proposed **Section 39** amended (offences):

“Section 39(1), after “(3)”—

Add

“(3A)”.

Repeal

“(3) or (5),”

Substitute

“(3), (5) or (9).”
