

**Bills Committee on Human Reproductive Technology Bill**  
**Checklist of outstanding issues**  
**(as at 5 January 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>23.9.98</u> Adm to look into the matter again.  <u>14.10.98</u> Adm needs more time to consider the policy.  <u>5.1.99</u> Adm was requested to advise its stance at the next meeting.
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 separate persons.  <u>14.10.98</u> Adm needs more time to consider the policy.  <u>5.1.99</u> Adm was requested to advise its stance at the next meeting.
(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>5.1.99</u> Adm to respond at next meeting.
(c) Qualification of person responsible		<u>18.11.98</u> Members agreed that the qualification should be specified in subsidiary legislation or COP.

<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>(b) licensee and person responsible to be appointed as members</p>	<p>3(2)</p> <p>3(2)(a) &amp; (b)</p>	<p><u>23.9.98</u> Adm to reconsider the provision.</p> <p><u>14.10.98</u> Adm needs more time to consider the policy.</p> <p><u>5.1.99</u> Adm was requested to advise its stance at the next meeting.</p> <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> <p><u>5.1.99</u> Adm to respond at next meeting.</p>
<p>4. Code of Practice (COP)</p>	<p>7</p>	<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> <p><u>5.1.99</u> Adm to respond at next meeting.</p>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
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> HA was requested to provide details of overseas case law. In response, Professor Christopher Harnes of the Chinese University of Hong Kong wrote to the Fertility Society of Australia for further details but the Society has not yet responded to his letter of 20.11.98.</p>
6. Limitation on eggs and sperms donation  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><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>
7. Artificial Insemination by Husband (AIH) should be allowed without specific statutory control.	(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>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>8. Right to access information</p> <p>(a) Application of clause 32 regarding disclosure in interests of justice</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(a)(i) and (ii).</p> <p><u>5.1.99</u> Adm to respond at next meeting.</p>
<p>9. Surrogacy</p> <p>(a) definition of “commercial” surrogacy and payment</p> <p>(b) protection for a surrogate mother during pregnancy</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, including arrangements made with a surrogate mother outside HK.</p> <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>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>5.1.99</u> Adm to respond at next meeting.</p>

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
9(c) proposal to confine a surrogate mother to a woman who is a HK permanent resident.		<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.
10. Imported sperm		<u>18.11.98</u> Adm to consider a monitoring mechanism and to provide information on overseas practices.  <u>5.1.99</u> Adm to respond at next meeting.
11. 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.
12. Selection of sex  (a) selection of sex under AIH         (b) sex selection is only acceptable for medical reasons	13(3)	<u>8.12.98</u> LC Paper No.CB(2)801/98-99(02) on overseas practice discussed.  <u>8.12.98</u> Adm to clarify whether the procedure is prohibited under the Bill.  <u>5.1.99</u> Adm to respond at next meeting.  <u>5.1.99</u> LC Paper No.CB(2)979/98-99(01) setting out deliberations of the Provisional Council on RT was tabled.

<u>Issues</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
13.    Limitation on cryopreservation  (a)    policy on cryopreservation          (b)    storage limit of gamates set at aged 55.		<u>5.1.99</u> LC Paper No.CB(2)801/98-99(02) discussed.  <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.  <u>5.1.99</u> Adm to clarify whether the policy constitute discrimination against age.

**Bills Committee on Human Reproductive Technology Bill**  
**List of completed items**  
**(as at 5 January 1999)**

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
1. Licensee and person responsible		
(a) Licensee and person responsible and system of checks and balance practices in other countries.	-	<u>29.10.98</u> Completed discussion on LC Paper No.CB(2) 503/98-99(01).
(b) Types of health care professionals qualified to carry out various RT procedures in other countries.	-	<u>29.10.98</u> Completed discussion on LC Paper No.CB(2) 503/98-99(01).
(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.	-	<u>29.10.98</u> Completed discussion on LC Paper No.LS57/98-99.
2. Ceiling on number of RT procedures commissioned by married couple.	-	<u>23.9.98</u> Adm clarified that there is no limit.
3. A statutory body should be set up to license medical institutes to carry out RT procedures.	(para 4(a))	<u>14.10.98</u> Members raised no query on the issue.
4. Right to access information	30-33	
(a) Legal distinction between a child born through RT and a genetic child in the Parent and Child Ordinance	-	<u>29.10.98</u> Completed discussion on LC Paper No.CB(2) 503/98-99(01).
(b) disclosure of donor's identity		<u>8.12.98</u> Members held different views.

<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
4(c) Overseas practices on right to access information by persons born following a RT procedure		<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>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>
6. Embryo research should be subject to control.	(para 4(f))	<p><u>18.11.98</u> Members agreed to the policy in principle.</p>
7. Submissions and Adm's response		<p><u>18.11.98</u> LC Paper No. CB(2)660/98-99(01) discussed.</p>



<u>Issues discussed</u>	<u>Clause</u> (LegCo Brief)	<u>Position</u>
<p>8. Surrogacy</p> <p>(a) viewpoints considered by the Adm before finalizing the policy</p> <p>(b) a surrogate mother should be a woman who has given birth to a child before.</p> <p>(c) statutory control in overseas countries</p>	<p>(para 4(e))</p>	<p><u>18.11.98</u> Paper provided by Adm discussed.</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>9. Record on RT activities</p> <p>(a) pooled data</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>