

**HUMAN REPRODUCTIVE TECHNOLOGY AMENDMENT (PROHIBITION OF HUMAN CLONING) BILL 2003**

*Returned*

Bill returned from the Council with amendments.

*Council's Amendments- Consideration in Detail*

The amendments made by the Council were as follows -

No 1

Clause 1, page 1, line 11 - To delete "*Human Reproductive Technology*" and insert instead "*Acts*".

No 2

Clause 1, page 1, line 12 - To insert after "*Cloning*" -  
*and Other Practices*

No 3

Clause 3, page 2, line 6 - To insert after "Act" -  
, except in section 11,

No 4

Clause 4, page 2, after line 15 - To insert -  
(2) After section 3(9) the following subsection is inserted -  
“

(9a) Nothing in this Act, or in a licence, authorisation or approval under this Act, authorises or permits the use of a human embryo for technical or commercial purposes in the testing, creation or manufacture of cosmetic products such as lipstick, mascara, face moisturising creams and other like beauty products.

”

No 5

Clause 8, page 4, line 15 - To delete "cell" and insert instead "egg".

No 6

Clause 8, page 12, after line 21 - To insert -

- (4) The Minister is to prepare a report based on the review made under subsection (1) and cause the report to be laid before each House of Parliament not later than 12 months from the date on which the review is first commenced.
- (5) The Minister must cause a copy of the report based on the review conducted under section 25 of the *Prohibition of Human Cloning Act 2003* of the Commonwealth to be laid before each House of Parliament not later than six sitting days from the date of receipt of the report.

No 7

New Clause, page 13, after line 4 - To insert the following New Clause -

**11. *Human Tissue and Transplant Act 1982* amended**

- (1) The amendment in this section is to the *Human Tissue and Transplant Act 1982*\*.

[\*] *Reprinted as at 29 October 1999.*

*For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 182.]*

- (2) The long title is amended by inserting after "transplantation," -

**other therapeutic purposes, or medical or scientific purposes,**

- (3) After Part V the following Part is inserted -

“

**Part VA - Prohibition on the use of embryonic stem cell lines**

**30A. Interpretation**

In this Part -

“**human embryonic stem cell line**” means cultured stem cells derived by isolation of cells from an excess ART embryo as defined in section 53T of the *Human Reproductive Technology Act 1991*;

“**therapeutic use**”, in relation to a human embryonic stem cell line, means -

- (a) its use in, or in connection with -
  - (i) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons;
  - (ii) influencing, inhibiting or modifying a physiological process in persons;
  - (iii) testing the susceptibility of persons to a disease or ailment;
  - (iv) influencing, controlling or preventing conception in persons;
  - (v) testing for pregnancy in persons; or
  - (vi) the replacement or modification of parts of the anatomy of persons;
- (b) a use of it that is prescribed in the regulations and is not inconsistent with a use referred to in paragraph (a); or
- (c) its use in training or research for the purposes of a use referred to in paragraph (a) or (b).

**30B. Restriction on use of human embryonic stem cell lines**

A person who uses a human embryonic stem cell line except for a therapeutic use commits a crime.

Penalty: Imprisonment for 5 years.

Summary conviction penalty: Imprisonment for 12 months.

”

No 8

Long Title, page 1, line 8 - To insert after “1991” -

**and to amend the *Human Tissue and Transplant Act 1982***

Leave granted for the amendments to be moved together.

Mr J.A. McGINTY: I move -

That amendments Nos 1 to 8 made by the Council be agreed to.

Mrs C.L. EDWARDES: I support the amendments that have been passed by the Legislative Council to the Human Reproductive Technology Amendment (Prohibition of Human Cloning) Bill 2003. The changes reflect the debate that has occurred in this House, which was unanimously supported. A further restriction on the use of human embryonic stem cell lines has been incorporated in the Bill. A definition of “therapeutic use” has been incorporated. Similarly incorporated has been a ban on the use of embryos for cosmetics purposes. We support the Government in its acceptance of these amendments.

Mr P.G. PENDAL: I put on record another piece of scrutiny that has worked to the advantage of the whole Chamber. An error in the drafting of the Bill was discovered by the member for Ballajura. It is another lesson to

us all, but it provides a particular message to newer members. We often hear members say in debate, “I am not a lawyer, but”, as though not being a lawyer is a serious disability. In legislation that is highly technical from a scientific and medical point of view rather than a legal drafting point of view, it took a chemist to pick up what the lawyers did not pick up. I recall that when the word in the Bill was picked up, it had already gone through all the processes. It had gone through the best of legal drafting in Western Australia - the best that the state law officers had to offer. I happen to think that we have superb craftsmen in that role. Nonetheless, a mistake was in the Bill. It was not just a typographical error, as someone tried to refer to it at the time. One was chalk and one was cheese. It was not a misspelling or the misplacement of an apostrophe. A new member, without legal training, pulled up the process. If I recall correctly, we agreed that we would let the mistake go through this House, with the promise by the Government that it would be repaired in the upper House. That has come to pass. It was another message to us all, but especially to younger members, that the idea that people need to be lawyers to be good legislators is not correct. I do not in any way denigrate those members who are lawyers, because they bring great skills to the Chamber. However, it took someone who was not a lawyer but who was reading the Bill logically and who had a science background to pick up the mistake. I do not know what the consequences would have been had that mistake got through. Sometimes we do not pay attention to the fine print and fine detail of legislation, because we assume that the craftsmen got it right in the first place. We tend to reserve our arguments for the broadness of the debate. It was not only a good thing that it was picked up, but also a pivotal thing. It was a tribute to the careful eye of a member of this Chamber who, in other circumstances, would have said that he was not an experienced legislator. It showed that the system works. That was another plus for the passage of the Bill.

**Question put and passed; the Council’s amendments agreed to.**

**The Council acquiesced accordingly.**