

HUMAN REPRODUCTIVE TECHNOLOGY AMENDMENT BILL 2007

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Minister for Child Protection)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan - Minister for Child Protection) [10.10 pm]: I move -

That the bill be now read a second time.

This bill amends the Human Reproductive Technology Act 1991 in respect of the regulation of embryo research and prohibited practices that relate to reproductive technology.

In April 2002, the Council of Australian Governments agreed to develop nationally consistent legislation to regulate human embryo research and ban human cloning. The commonwealth passed the Prohibition of Human Cloning Act 2002 and the Research Involving Human Embryos Act 2002 - the commonwealth acts - and all jurisdictions except the Northern Territory have since enacted complementary legislation. In WA this was done by amending the HRT act in 2004.

In 2005, a committee chaired by the late John Lockhart, AO, QC, a former judge of the Federal Court, reviewed the commonwealth acts and the corresponding state and territory legislation, including the HRT act. The Legislation Review Committee was appointed by the commonwealth minister with the agreement of all the states and territories, and included Western Australia's Professor Barry Marshall. The committee consulted the community extensively in the course of the review through a review website, written submissions, face-to-face meetings with key stakeholders, public hearings and some private meetings - at stakeholders' requests - facilitated stakeholder discussion forums and selected site visits. In addition, the committee reviewed the latest results of focus group and telephone survey research by the Public Awareness Program of Biotechnology Australia, and a literature review - commissioned by the National Health and Medical Research Council on behalf of the Minister for Health and Ageing - of recent scientific and technological advances in human cloning, human embryo research and related matters, including stem cell technologies. As a result of the review, the committee produced a report containing 54 recommendations. This report was tabled in the Legislative Assembly on 29 March 2006.

In December 2006, the commonwealth acts were amended by a private member's bill introduced by Senator Kay Patterson to give effect to most of the recommendations of the Lockhart review. The amendments to the commonwealth acts came into effect on 12 June 2007. Similar legislation has been passed in both Victoria and New South Wales.

The bill amends the HRT act to maintain consistency with the commonwealth acts.

In summary, the amendments, firstly, retain the existing framework in relation to embryos created by fertilisation of human eggs by human sperm. Such embryos can be created only for the purpose of achieving pregnancy in a woman. If at the end of assisted reproductive technology - ART - treatment the embryos are excess to the needs of the people for whom they were created, they can be donated for research. Any use of the excess ART embryos for research will continue to be subject to the strict licensing requirements that are provided in the HRT act.

Secondly, the amendments retain the ban on human cloning for reproductive purposes. Thirdly, they allow for the creation of embryos by means other than fertilisation and the use of those embryos for research. Both the creation and the use of the embryo are subject to the same strict licensing that applies to excess ART embryos. Embryos created by means other than fertilisation cannot be developed by any means for more than 14 days and must not be used for reproductive purposes. Fourthly, the amendments require the tabling of reports prepared by the relevant commonwealth minister regarding the establishment of a national stem cell bank, the establishment of a national register of excess ART embryos that have been donated for research, and the feasibility of a national approach to non-blood human tissue based therapies. Fifthly, the amendments require the WA minister to cause a further independent review of the legislation in three years, which may be undertaken as part of the required review of the commonwealth acts.

Research that may be licensed under the bill includes research aimed at improving ART services as well as research into understanding and treating a range of diseases.

Allowing the creation of embryos by methods other than fertilisation would allow the creation of embryos under licence using somatic cell nuclear transfer - SCNT - whereby a cell from a patient, such as a skin cell, is placed into a human egg that has had its nucleus removed. This is sometimes called therapeutic cloning. Embryos created using SCNT can be used as a source of embryonic stem cells that have a specific genetic disease. The

stem cells can be used to undertake research about the progression of the disease and also research about the effect of treatment options. Stem cells obtained from an embryo that is a genetic match to a person with a disease also hold the potential for therapeutic application. Stem cells created with the same genetic make-up as the person means that the problem of rejection of tissue that is placed back into the person is avoided.

The other activities that may be licensed are directed at facilitating research to improve ART treatment. The bill will assist research into freezing human eggs and developing mature eggs from ovarian tissue by allowing testing of the viability of the resulting eggs. A number of women have had ovarian tissue stored prior to undergoing chemotherapy that may destroy their reproductive capacity. If egg cells in the ovarian tissue can be developed to maturity, these eggs could be used to allow those women to have a child that is genetically related to them. Research into infertility caused by diseases in the mitochondria - which is found in the cytoplasm of cells and which does not affect the characteristics of the person - would also be facilitated. Testing of sperm quality by attempting fertilisation of animal eggs could be licensed, as could training and research on human embryos that are not fit for implantation.

As the legislation review committee noted, there is a divergence of views in Australian society about the issues encompassed by this legislation. The committee noted a broad community support for medical research and clinical practice aimed at understanding, preventing or treating disease, and for research and clinical practice aimed at assisting people to have children. In making its recommendations, the committee considered the need to balance the social and moral value that some people in the community attach to the human embryo against the social and moral value that is attached to the treatment of disease and to helping people to have a family. The bill reflects the balance by allowing some research opportunities under rigorous licensing requirements. I commend the bill to the house.

Debate adjourned and bill referred to the Standing Committee on Uniform Legislation and Statutes Review, pursuant to standing orders.