

ESTIMATES AND FINANCIAL OPERATIONS COMMITTEE
QUESTIONS ON NOTICE SUPPLEMENTARY INFORMATION

Wednesday, 24 June 2015

Department of Health

Question No. 11: Hon N Goiran asked –

I refer to the intended reforms to the Human Reproductive Technology Act 1991 which would seek to facilitate posthumous collection of gametes under certain circumstances, and I ask:

Noting the Minister's previous advice that he is now in possession of a position statement from the Reproductive Technology Council, what is the current status of those reforms?

Answer: The Department of Health's Reproductive Technology Unit and Legal and Legislative Services have commenced work to develop a draft policy, which will inform the development of legislative amendments to the *Human Reproductive Technology Act 1991*, subsidiary legislation, and any related legislation.

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Department of Health

Question No. 13: Hon N Goiran asked –

I refer to the intended reforms to the Human Reproductive Technology Act 1991 which would seek to facilitate posthumous collection of gametes under certain circumstances, and I ask:

How many women have successfully sought posthumous collection of gametes for reproductive purposes in the terms described by Justice Edelman in Re Section 22 of the Human Tissue and Transplant Act 1982 (WA); ex parte C [2013] WASC 3, by recourse directly to a hospital's designated officer under S4 of the Human Tissue and Transplant Act 1982?

Answer: This information is not reported to the Department of Health. The designated officers are appointed by the Executive Director, Public Health (EDPH) under the *Human Tissue and Transplant Act 1982*, which does not require the EDPH to collect information on the activities on posthumous collection of gametes.

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Wednesday, 24 June 2015

Department of Health

Question No. 14: Hon N Goiran asked –

I refer to the intended reforms to the Human Reproductive Technology Act 1991 which would seek to facilitate posthumous collection of gametes under certain circumstances, and I ask:

Further to Question 13, if this information is not available how will the planned amendments to the Human Reproductive Technology Act be properly informed?

Answer: Any amendments to the *Human Reproductive Technology Act 1991*, subsidiary legislation and any related legislation will be properly informed by the development of policy that reflects ethical standards and values, scientific evidence, potential risks, and the best interest of any future children and the applicants.



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Wednesday, 24 June 2015

Department of Health

Question No. 18: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

What was the cost of the Review?

Answer: \$65,000.



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Wednesday, 24 June 2015

Department of Health

Question No. 19: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Are you aware that in the State of Victoria, criminal record checks and child protection order checks are required for arranged parents and for the surrogate mother and partner?

Answer: Yes.



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Wednesday, 24 June 2015

Department of Health

Question No. 20: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Further to Question 19, are you aware that if such checks indicate any conviction for sexual or violent offences or any child protection order, a presumption against treatment will apply?

Answer: Yes.



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Wednesday, 24 June 2015

Department of Health

Question No. 21: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Further to Questions 19 and 20, in light of these seemingly sensible Victorian provisions, why did the Review fail to recommend an amendment to the Act mandating for parties to a surrogacy arrangement to undergo a criminal record check?

Answer: The Review recommended support of referral to the Council of Australian Governments to enable a coordinated national approach to surrogacy, relevant legislation and related issues.

Consequently criminal record checks will be an issue for consideration in the provision of consistent surrogacy legislation across jurisdictions. Harmonisation of parentage laws in relation to surrogacy was discussed at the Law Crime and Community Safety Council (LCCSC) meeting on 22 May 2015.

A working group is to be convened under the LCCSC to examine whether further work is required on harmonisation of surrogacy and parentage laws as they relate to international surrogacy.



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Wednesday, 24 June 2015

Department of Health

Question No. 22: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Further to Question 21, will the Minister give consideration to seeking an amendment to this effect?

Answer: See answer to question 21.

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Wednesday, 24 June 2015

Department of Health

Question No. 23: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 ("the Review"), and I ask:

In light of the public outcry following the high-profile baby Gammy case involving a Western Australian couple, has an explanation been provided to the Minister as to why the Review did not recommend that the Act be amended to make it unlawful for Western Australian residents to enter into international commercial surrogacy arrangements?

Answer: The Review highlighted that while Queensland, New South Wales and the Australian Capital Territory have specific extraterritorial provisions in their legislation, to prosecute residents who commission overseas commercial surrogacy, there does not appear to have been any prosecutions to date despite a significant number of cases.

The difficulties of evidentiary issues and achieving successful prosecutions in this area are acknowledged, but explicit provisions providing extraterritorial reach to prohibit commercial surrogacy may nevertheless act as a deterrent.

Given the growing concerns regarding international commercial surrogacy, a nationally consistent approach to provisions that may deal with extraterritorial reach is seen as desirable.



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Wednesday, 24 June 2015

Department of Health

Question No. 25: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Noting that recommendation 3 of the Review reads, “Encourage and facilitate more research on national and international surrogacy and the long term social and psychological outcomes” what is the provision in the Budget for this?

Answer: There are no budgetary implications as the Department of Health is collaborating with Professor Jenni Millbank, Law Faculty, University of Sydney, who is undertaking research on “Family Formation Inside and Outside Law’s Reach.”

The Reproductive Technology Unit will liaise with Western Australian (WA) fertility clinics to facilitate the recruitment of WA participants.

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Wednesday, 24 June 2015

Department of Health

Question No. 26: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Noting that the Review states that “[t]here is an emerging need for a coordinated critical evaluation of current policies and legislation, concerning surrogacy arrangements, to consider further state, territory and Commonwealth cooperation on consistent surrogacy laws nationally”, what steps have been taken by the Department since the tabling of the Review to address this emerging need?

Answer: The Department of Health is liaising with State and Commonwealth agencies with responsibilities and interest related to surrogacy.

Importantly, the Commonwealth House of Representatives Standing Committee on Social Policy and Legal Affairs recommended the Commonwealth Attorney General refer to them an inquiry into the regulatory and legislative aspects of national and international surrogacy arrangements.

This will be congruent with the recommendations of the Review of the Surrogacy Act 2008; provision of a coordinated critical evaluation of current policy and legislation, standardised legislation across states, understanding and managing the effect of the global surrogacy market in Commonwealth, State and Territory legislation.


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Wednesday, 24 June 2015

Department of Health

Question No. 27: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Further to Question 26, what further steps does the Department intend to take in the 2015/16 year and what provision has been made for this in the Budget?

Answer: The Department of Health will continue to liaise with State and Commonwealth agencies with responsibilities and interest related to surrogacy. This can be achieved within the current budget.

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Wednesday, 24 June 2015

Department of Health

Question No. 28: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Noting the assessment in the Review that “Given the scale of international commercial surrogacy arrangements, there is a need to gather demographic information, monitor trends, evaluate outcomes, and investigate the impact of international commercial surrogacy on policies and regulations in Australia”, what provision has been made in the Budget to facilitate this?

Answer: See answer to question 25.



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Wednesday, 24 June 2015

Department of Health

Question No. 29: Hon N Goiran asked –

I refer to the report on the statutory review of the Surrogacy Act 2008 (“the Review”), and I ask:

Noting the Review states that “the Department of Health is working with fertility clinics to undertake research on the experiences and perspectives of people who have been, or are currently, involved in an altruistic surrogacy arrangement in Western Australia” I ask,

- (a) When did this research commence?*
- (b) What has been the cost of the research project to-date?*

Answer: (a-b) The research has not yet commenced.

- (c) What are the further expected costs in order to complete the research project?*

Answer: See answer to question 25.

- (d) Has the Department provided any funding to fertility clinics for this research?*

Answer: No.

- (e) If yes to point d above, to whom and how much?*

Answer: Not applicable.

- (f) What is the target date for the completion of this research project?*

Answer: 2018.

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