

House of Representatives  
Supplementary Order Paper

Wednesday, 6 October 2004

Human Assisted Reproductive Technology Bill

*Proposed amendments*

Sue Kedgley, in Committee, to move the following amendments:

*New clause 11A*

To insert after clause 11 (after line 31 on page 24), the following clause:

- 11A Restrictions on selection or rejection of human embryos**
- (1) No person may, for reproductive purposes, select or reject an in vitro human embryo for implantation into a human being on the basis of the presence or absence of particular genetic characteristics in the embryo, unless the selection or rejection is performed to—
    - (a) prevent a serious genetic disease or disorder; or
    - (b) significantly increase the likelihood of a successful implantation.
  - (2) Every person commits an offence who contravenes this section, and is liable on summary conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding \$100,000, or both.

*New clause 35A*

To insert, after clause 35 (after line 29 on page 39), the following clause:

- 35A Procedure for bringing guidelines into force**
- Guidelines issued by the advisory committee under **section 35** may be used as the basis for an ethics committee approval under **section 19** only after the guidelines have been issued as regulations under **section 72**.

*Clause 72*

To insert in subclause (2), after the words “thinks fit to consult” (line 9 on page 60), the words: “and has presented the proposed regulations to Parliament under subsections (3) to (8)”.

To add after subsection (2) (after line 9 on page 60) the following subsections:

- (3) Before the Minister recommends the making of a regulation to the Governor-General, the Minister must present the proposed regulation to Parliament. The proposed regulation must, by resolution of the House of Representatives, be referred to a committee of the House of Representatives for examination and report.
- (4) The Minister may not recommend the making of a regulation to the Governor-General before the earliest of—
  - (a) 30 sitting days after the proposed regulation is presented to Parliament; or
  - (b) 160 calendar days after the proposed regulation is presented to Parliament; and
  - (c) the day after the committee of the House of Representatives has reported its findings on its examination of the proposed regulation.
- (5) The Minister must take account of any report of a committee to which a proposed regulation is referred under **subsection (3)** and, if the regulation does not incorporate a recommendation of the committee, the Minister must present to Parliament a statement of the reasons for not incorporating it.
- (6) A proposed regulation that has been presented to Parliament need not again be presented prior to the making of the regulation, whether it has been altered or not.
- (7) The Minister may recommend the making of a regulation to the Governor-General without it first being presented to Parliament if the Minister is of the opinion that—
  - (a) the changes made by the regulation to an existing regulation are so immaterial or insubstantial that **subsections (3) to (6)** should not apply in the circumstances; or
  - (b) the regulation must be made immediately in order to protect the health or safety of any person.
- (8) If a regulation is made without being presented to Parliament, the Minister must present to Parliament a statement of the Minister's reasons.

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### Explanatory note

*New clause 11A* is to remedy the fact that the bill as it is currently drafted allows the advisory committee to issue guidelines allowing embryo selection for blue eyes, athleticism or any other genetic characteristic (except sex). This kind of eugenics is anathema to New Zealand values. Hence Parliament needs to give the advisory committee clear direction that embryo selection techniques, such as pre-implantation genetic diagnosis, can only be used to prevent serious genetic diseases or disorders or to increase the likelihood of a successful implantation.

*New clause 35A* addresses the reality that the guidelines issued by the advisory committee are in fact a kind of delegated legislation that determine which assisted human reproduction procedures or research can be approved by the ethics committee. This amendment ensures that the guidelines must be promulgated as regulations before they take effect. It will ensure that the guidelines are enforceable, and clearly written.

The amendments to clause 72 provide a procedure whereby regulations must first be presented to Parliament so a committee of the House of Representatives may examine the proposed regulations and provide some response. There is no requirement that the Minister follow any recommendation of the committee, but the Minister must provide reasons if any recommendation is ignored. There is also provision to allow regulations to be made without first being presented to Parliament if they are minor or to protect a person's health and safety.

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