

The following Act was passed by Parliament on 2nd September 2004 and assented to by the President on 10th September 2004:—

THE HUMAN CLONING AND OTHER PROHIBITED PRACTICES ACT 2004

(No. 35 of 2004)

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REPUBLIC OF SINGAPORE

No. 35 of 2004.

I assent.

(LS)

S R NATHAN,
President.

10th September 2004.

An Act to prohibit the placing of a human embryo clone in the body of a human or an animal and certain other practices associated with reproductive technology.

Be it enacted by the President, with the advice and consent of the Parliament of Singapore, as follows:

PART I

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Human Cloning and Other Prohibited Practices Act 2004 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Interpretation

2.—(1) In this Act, unless the context otherwise requires —

“animal” does not include a human;

“Director” means the Director of Medical Services;

“enforcement officer” means the Director and any other public officer or any officer of any statutory authority who is appointed by the Director under section 4 to be an enforcement officer for the purposes of this Act;

“human embryo” means any live embryo that has a human genome or an altered human genome and that has been developing for less than 8 weeks since the appearance of 2 pro-nuclei or the initiation of its development by other means;

“human embryo clone” means any human embryo that is a genetic copy of another living or dead human, but does not include a human embryo created by the fertilisation of a human egg by human sperm;

“human sperm” includes human spermatids;

“prohibited embryo” means —

(a) any human embryo that has been developing outside the body of a woman for a period of more than 14 days, excluding any period when the development is suspended;

(b) any human embryo that was removed from the body of a woman by a person intending to collect a viable human embryo; or

(c) such other thing as may be prescribed to be a prohibited embryo for the purposes of this Act;

“prohibited practice” means any of the practices prohibited under Part III.

(2) For the purposes of establishing that a human embryo clone is a genetic copy of another living or dead human —

(a) it shall be sufficient to establish that the set of genes in the nuclei of the cells of the living or dead human has been copied; and

(b) it shall not be necessary to establish that the copy is an identical genetic copy.

(3) For the purposes of the definition of “human embryo” in subsection (1), in working out the length of the period of development of a human embryo, any period when the development of the embryo is suspended shall be disregarded.

(4) For the purposes of the definition of “human embryo clone” in subsection (1), a human embryo that results from the technological process known as embryo splitting shall not be taken to be created by a process of fertilisation of a human egg by human sperm.

Act to bind Government

3. This Act shall bind the Government.

PART II

ADMINISTRATION

Administration of Act

4.—(1) The Director shall be responsible for the administration and enforcement of this Act, subject to the general and special directions of the Minister.

(2) The Director may in writing appoint any public officer or any officer of any statutory authority to be an enforcement officer for the purposes of this Act.

(3) Every enforcement officer shall, when exercising his powers and carrying out his duties under this Act, comply with such general or special directions as may, from time to time, be given to him by the Director.

(4) Every enforcement officer shall, when exercising any powers under this Act —

(a) if not in uniform, declare his office; and

(b) on demand, produce to any person affected by the exercise of those powers such identification card as the Director may direct to be carried by him when exercising such powers.

(5) Every enforcement officer appointed under subsection (2) shall be deemed to be a public servant within the meaning of the Penal Code (Cap. 224).

PART III

PROHIBITED PRACTICES

Division 1 — Human cloning

Prohibition against placing human embryo clone in body of human or animal

5. No person shall place any human embryo clone in the body of a human or the body of an animal.

No defence that human embryo clone could not survive

6. It shall not be a defence to an offence under section 5 that the human embryo clone did not survive or could not have survived.

Division 2 — Other prohibited practices

Prohibition against developing human embryo created other than by fertilisation of human egg by human sperm

7. No person shall develop any human embryo, that is created by a process other than the fertilisation of a human egg by human sperm, for a period of more than 14 days, excluding any period when the development of the embryo is suspended.

Prohibition against developing human embryo outside body of woman for more than 14 days

8. No person shall develop any human embryo outside the body of a woman for a period of more than 14 days, excluding any period when the development of the embryo is suspended.

Prohibition against collecting viable human embryo from body of woman

9. No person shall remove any human embryo from the body of a woman for the purpose of collecting a viable human embryo.

Prohibition against certain uses of embryo

10. No person shall —

- (a) place any human embryo in an animal;
- (b) place any human embryo in the body of a human, other than in a woman's reproductive tract; or
- (c) place any animal embryo in the body of a human for any period of gestation.

Prohibition against placing prohibited embryo in body of woman

11. No person shall place any embryo in the body of a woman knowing that, or reckless as to whether, the embryo is a prohibited embryo.

Prohibition against importing and exporting prohibited embryos

12. No person shall knowingly —

- (a) import any prohibited embryo into Singapore; or
- (b) export any prohibited embryo out of Singapore.

Prohibition against commercial trading in human eggs, human sperm and human embryos

13.—(1) No person shall —

- (a) give or offer valuable consideration to another person; or

(b) receive, or offer to receive, valuable consideration from another person,

for the supply of any human egg, human sperm or human embryo.

(2) Any contract or arrangement entered into by any person in contravention of subsection (1) shall be void.

(3) Subsection (2) shall not apply to or in relation to any contract or arrangement providing only for the reimbursement of any reasonable expenses incurred by a person in relation to the supply of any human egg, human sperm or human embryo.

(4) For the avoidance of doubt, any reference in this section to the supply of any human egg, human sperm or human embryo shall not include the provision of any service for facilitating the donation and receipt of any human egg, human sperm or human embryo by receiving, storing, processing and subsequently implanting the donated human egg, human sperm or human embryo in the body of another human, whether or not for consideration.

(5) In this section —

“reasonable expenses” —

(a) in relation to the supply of any human egg or human sperm, includes, but is not limited to, expenses relating to the collection, storage or transport of the egg or sperm; and

(b) in relation to the supply of any human embryo, includes, but is not limited to, expenses relating to the storage or transport of the embryo;

“valuable consideration”, in relation to the supply of any human egg, human sperm or human embryo by a person, includes any inducement, discount or priority in the provision of a service to the person, but does not include the payment of reasonable expenses incurred by the person in connection with the supply.

POWERS OF ENFORCEMENT

Power of entry, inspection, search, seizure, etc.

14.—(1) For the purpose of investigating whether any provision of this Act has been or is being contravened, an enforcement officer may, at any time and without warrant, enter, inspect and search any premises and the facilities therein that are being used, or that he has reasonable cause to believe are being used, for any prohibited practice.

(2) In exercising his powers under subsection (1), an enforcement officer may —

- (a) inspect any apparatus, appliance, equipment or instrument used or found in those premises;
- (b) inspect, test, examine, remove and detain any sample of human, animal or plant tissue or any other substance or matter found in those premises;
- (c) inspect and make copies of and take extracts from, or require the person having the control or management of those premises or any other person found therein to provide copies of or extracts from, any book, document, record or electronic material that relates to, or that reasonably appears to relate to, any prohibited practice;
- (d) require the person having the control or management of those premises to furnish such information as the enforcement officer may require in relation to —
 - (i) any person involved in carrying out any prohibited practice in those premises;
 - (ii) any prohibited practice that has been or is being carried out in those premises;
 - (iii) any apparatus, appliance, equipment or instrument that has been or is being used in carrying out any prohibited practice in those premises;

- (iv) the source of any human, animal or plant tissue or any other substance or matter that has been or is being used in any such prohibited practice; or
 - (v) any other matter that is relevant to the administration or enforcement of this Act; and
- (e) seize and remove from those premises any book, document, record, electronic material, apparatus, appliance, equipment, instrument, sample, human, animal or plant tissue or other substance or matter which the enforcement officer reasonably believes to be the subject matter of, or to be connected with the commission of, an offence under this Act.

(3) Subject to subsection (4), any article seized or taken by an enforcement officer under subsection (2) may be retained by the Director for a period of 6 months or such longer period as a Magistrate's Court may, on application by an enforcement officer, allow.

(4) If, within the period allowed under subsection (3), proceedings are commenced against any person for an offence under this Act and the article so seized or taken is relevant to the proceedings, then that article may be retained by the Director until the conclusion of those proceedings.

(5) Where any person has been convicted of an offence under this Act, any article seized or taken by an enforcement officer under subsection (2) in respect of that offence shall be destroyed, disposed of or otherwise dealt with in such manner as the Director may think fit.

(6) Any person who —

- (a) refuses or fails, without reasonable excuse, to comply with any requirement of an enforcement officer under this section; or
- (b) gives any false or misleading information when required to furnish any information to an enforcement officer under this section,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

Protection from personal liability

15. No suit or other legal proceeding shall lie personally against the Director, any enforcement officer or any other person acting under the direction of the Director for anything which is in good faith done or intended to be done in the execution or purported execution of this Act.

PART V

MISCELLANEOUS

Obstructing enforcement officer in execution of his duties

16. Any person who obstructs, hinders or impedes an enforcement officer in the performance or execution of his duty or anything which he is authorised, empowered or required to do under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

Offences by bodies corporate, etc.

17.—(1) Where an offence under this Act committed by a body corporate is proved —

- (a) to have been committed with the consent or connivance of; or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

- (a) to have been committed with the consent or connivance of a partner; or

(b) to be attributable to any neglect on his part,
the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

(a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) In this section —

“officer” —

(a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or

(b) in relation to an unincorporated association (other than a partnership), means the president, the secretary or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

Offences

18. Any person who contravenes section 5, 7, 8, 9, 10, 11, 12 or 13(1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 10 years or to both.

Consent to prosecute

19. No prosecution in respect of any offence under this Act shall be instituted except by or with the consent of the Public Prosecutor.

Jurisdiction of court

20. Notwithstanding any provision to the contrary in the Criminal Procedure Code (Cap. 68), a District Court shall have jurisdiction to try any offence under this Act and shall have power to impose the full penalty or punishment in respect of the offence.

Service of documents

21.—(1) Any notice, order or document required or authorised by this Act to be served on any person, and any summons issued by a court against any person in connection with any offence under this Act may be served on the person —

- (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or business in an envelope addressed to the person;
- (c) by sending it by registered post addressed to the person at his usual or last known place of residence or business; or
- (d) in the case of an incorporated company, a partnership or a body of persons —
 - (i) by delivering it to the secretary or other like officer of the company, partnership or body of persons at its registered office or principal place of business; or
 - (ii) by sending it by registered post addressed to the company, partnership or body of persons at its registered office or principal place of business.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order, document or summons, as the case may be, would in the ordinary course of post be delivered.

(3) In proving the service of any notice, order, document or summons effected under this section, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

Regulations

22. The Minister may make regulations for prescribing anything which may be prescribed under this Act and generally to give effect to the provisions of this Act, and for carrying out the purposes and provisions of this Act.

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HUMAN CLONING AND
OTHER PROHIBITED PRACTICES ACT 2004
(ACT 35 OF 2004)

HUMAN CLONING AND
OTHER PROHIBITED PRACTICES ACT
(COMMENCEMENT) NOTIFICATION 2004

In exercise of the powers conferred by section 1 of the Human Cloning and Other Prohibited Practices Act 2004, the Minister for Health hereby makes the following Notification:

1. This Notification may be cited as the Human Cloning and Other Prohibited Practices Act (Commencement) Notification 2004.

2. The Human Cloning and Other Prohibited Practices Act 2004 shall come into operation on 1st October 2004.

Made this 18th day of September 2004.

MOSES LEE
*Permanent Secretary,
Ministry of Health,
Singapore.*

[MH CF 78:79 Vol. 4; AG/LEG/B/15/2004]