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Notification No. B 33 — The Human Organ Transplant (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 10th day of November 2003.

Human Organ Transplant (Amendment) Bill

Bill No. 33/2003.

Read the first time on 10th November 2003.

A BILL

i n t i t u l e d

An Act to amend the Human Organ Transplant Act (Chapter 131A of the 1988 Revised Edition).

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

Short title and commencement

1. This Act may be cited as the Human Organ Transplant (Amendment) Act 2003 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Repeal and re-enactment of long title

2. The long title to the Human Organ Transplant Act (referred to in this Act as the principal Act) is repealed and the following long title substituted therefor:

10 “An Act to make provision for the removal of organs for transplantation, for the prohibition of trading in organs and blood, and for purposes connected therewith.”.

Amendment of section 2

3. Section 2 of the principal Act is amended —

15 (a) by deleting the definition of “hospital” and substituting the following definitions:

“ “hospital” means a hospital which is declared by the Minister, by notification in the *Gazette*, to be a hospital for the purposes of this Act or any part thereof;

20 “licensee”, in relation to a hospital, means the person to whom a licence has been issued under the Private Hospitals and Medical Clinics Act (Cap. 248) in respect of the hospital;

25 “living donor organ transplant” means the removal of a specified organ from the body of any living person for the purpose of its transplantation into the body of another living person;” and

(b) by deleting the definition of “organ” and substituting the following definitions:

“organ” means —

(a) except as provided in paragraph (b), any organ of a human body specified in the First Schedule; and

(b) for the purposes of Parts IV and IVA, any organ of a human body;

“specified organ” means any organ of a human body as specified in the Second Schedule;

“transplant ethics committee”, in relation to a hospital, means a committee of the hospital appointed under section 15B(1).”.

Amendment of section 5

4. Section 5(2) of the principal Act is amended by deleting paragraph (b).

Amendment of section 9

5. Section 9(1) of the principal Act is amended by inserting, immediately after the words “his objection”, the words “in respect of that organ”.

Amendment of section 11

6. Section 11(1) of the principal Act is amended by inserting, immediately after the words “section 9”, the words “in respect of any organ”.

Amendment of section 12

7. Section 12 of the principal Act is amended —

(a) by inserting, immediately after the words “section 9(1)” in subsection (1)(a) and (b), the words “in respect of that organ”;

(b) by inserting, immediately after the words “whose objection” in subsection (1)(b), the words “in respect of that organ”;

(c) by deleting the words “his organ” in subsection (2)(a) and substituting the words “that organ”;

- (d) by deleting the words “16th July 1987” in subsection (2)(a)(i) and substituting the words “the date of commencement of the Human Organ Transplant (Amendment) Act 2003”;
- 5 (e) by deleting the words “his organ” in subsection (2)(b) and (c) and substituting in each case the words “that organ from his body”; and
- (f) by inserting, immediately after the words “whose objection” in subsection (2)(b) and (c), the words “in respect of that organ”.

New Part IVA

- 10 **8.** The principal Act is amended by inserting, immediately after section 15, the following Part:

“PART IVA

LIVING DONOR ORGAN TRANSPLANTS

Donation of organs by living persons

- 15 **15A.—**(1) No person shall carry out or cause to be carried out any living donor organ transplant unless —
 - (a) the specified organ is removed in a hospital with the written authorisation of the transplant ethics committee of the hospital; and
 - 20 (b) the donor of the specified organ has given his consent to the removal of the specified organ from his body and has not revoked or withdrawn the consent.
- (2) The transplant ethics committee of a hospital shall not give any authorisation under subsection (1) for the removal of the specified
 - 25 organ from the body of any living person unless it is satisfied that —
 - (a) the person from whom the specified organ is to be removed has given his consent to such removal;
 - (b) the person is of sound mind and, notwithstanding his age, is able to understand the nature and consequence of the
 - 30 medical procedures he has to undergo as a result of his donation of the specified organ; and

(c) the consent referred to in paragraph (a) —

(i) is not given pursuant to any contract or arrangement, whether prohibited under section 14 or otherwise; and

(ii) is not given or obtained by virtue of any fraud, duress or undue influence.

(3) In determining whether to give any authorisation under subsection (1), the transplant ethics committee shall have regard to such considerations as may be prescribed or as may be directed by the Director.

(4) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Appointment and functions of transplant ethics committees

15B.—(1) The licensee of a hospital in which any living donor organ transplant is intended to be carried out shall, with the approval of the Director, appoint a transplant ethics committee.

(2) Every transplant ethics committee of a hospital shall consist of not less than 3 persons, of whom —

(a) at least one shall be a medical practitioner not employed or otherwise connected with the hospital; and

(b) at least one shall be a lay person.

(3) The transplant ethics committee appointed under subsection (1) shall assess and, where appropriate, give its written authorisation for the living donor organ transplant to be carried out.

(4) Anything done by the transplant ethics committee of a hospital, a member of the transplant ethics committee, or any person acting under the direction of the transplant ethics committee or the Director, in good faith for the purposes of the exercise of the functions of the transplant ethics committee or in accordance with this Act shall not subject the member or person personally to any action, liability, claim or demand.

(5) Nothing in subsection (4) shall absolve any person from having to obtain the consent of a person before carrying out any medical procedure on that person.

Regulation of transplant ethics committees

5 **15C.**—(1) Where the Director is of the opinion that the transplant ethics committee of a hospital is not discharging its functions in accordance with this Act or in a satisfactory manner, the Director may do one or more of the following:

- 10 (a) direct the transplant ethics committee to suspend all or any part of its activities;
- (b) direct the licensee of the hospital to remove or replace any member of the transplant ethics committee;
- 15 (c) direct the licensee of the hospital to dissolve the transplant ethics committee and appoint a new transplant ethics committee in its place.

(2) Until the direction of the Director issued under subsection (1) has been complied with —

- 20 (a) the licensee of the hospital shall ensure that no living donor organ transplant authorised under section 15A(1) is carried out in the hospital; and
- (b) no person shall carry out any such living donor organ transplant in the hospital,

unless otherwise allowed by the Director and in accordance with such conditions as the Director may impose.

25 (3) Any written authorisation given by the transplant ethics committee in respect of which a direction has been issued under subsection (1) shall remain valid unless rescinded by the Director.

30 (4) Any person who contravenes subsection (2)(a) or (b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Director may issue directions

15D.—(1) The Director may, from time to time, issue directions to the licensee or the transplant ethics committee of any hospital for any purpose specified in this Part or in relation to the operation of any of the provisions of this Part.

(2) The Director may, at any time, amend or revoke any direction issued under subsection (1).

(3) Any person to whom a direction has been issued under this section shall comply with the direction.”.

New sections 18A and 18B

9. The principal Act is amended by inserting, immediately after section 18, the following sections:

“Composition of offences

18A.—(1) The Director may, in his discretion, compound any offence under this Act which is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding \$2,000.

(2) On payment of such sum of money, no further proceedings shall be taken against such person in respect of the offence.

Amendment of Second Schedule

18B.—(1) The Minister may, from time to time, by order in the *Gazette*, amend, add to or vary the Second Schedule.

(2) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the *Gazette*.”.

Amendment of section 19

10. The principal Act is amended by renumbering section 19 as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to —

(a) the forms and the fees for the purposes of this Act;

- (b) the appointment, functions, responsibilities and procedures of transplant ethics committees; and
- (c) the preparation and the submission of such documents as may be prescribed.”.

5 **New Schedules**

11. The principal Act is amended by inserting, immediately after section 19, the following Schedules:

“FIRST SCHEDULE

Section 2

10 **ORGANS FOR THE PURPOSES OF ACT OTHER
THAN PARTS IV AND IVA**

- 1. The kidney.
- 2. The liver.
- 3. The heart.
- 15 4. The cornea.

SECOND SCHEDULE

Sections 2 and 18B

SPECIFIED ORGANS FOR THE PURPOSES OF PART IVA

- 1. The kidney.
 - 20 2. Any part of the liver.”.
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EXPLANATORY STATEMENT

This Bill seeks to amend the Human Organ Transplant Act (Cap. 131A) —

- (a) to include livers, hearts and corneas in the Act as organs which may be removed for the purpose of transplantation from the body of a deceased person;
- (b) to allow the removal of organs for transplantation in cases involving any cause of death, whether due to accident or otherwise; and
- (c) to regulate living donor organ transplants.

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title to better reflect the scope of the Act in consequence of the Bill.

Clause 3 amends section 2 by inserting definitions of certain terms, including the term “specified organ” used in the new Part IVA relating to living donor organ transplants (inserted by clause 8). The clause also modifies certain definitions in the Act, including paragraph (a) of the definition of “organ” to include, in the new First Schedule (inserted by clause 11), livers, hearts and corneas as organs which may be removed from deceased persons for the purpose of transplantation.

Clause 4 amends section 5(2) to allow organs to be removed from a deceased person who has died from any cause of death, and not just where the death was caused by accident or resulted from injuries caused by accident.

Clauses 5, 6 and 7 amend sections 9(1), 11(1) and 12, respectively, as a consequence of the amendment of the definition of “organ” in section 2 (by clause 3).

Clause 8 inserts a new Part IVA comprising sections 15A to 15D to provide for living donor organ transplants.

The new section 15A prohibits living donor organ transplants except where certain conditions are satisfied, including the written authorisation of the transplant ethics committee of the hospital in which the removal of the specified organ for transplantation is to proceed. The section requires a transplant ethics committee to be satisfied that the donor of a specified organ has consented to the removal of the specified organ from his body before giving its authorisation. In making their determination, transplant ethics committees are also required to take into consideration the matters prescribed or directed by the Director of Medical Services (the Director).

The new section 15B makes provision for the appointment and functions of transplant ethics committees. Every transplant ethics committee of a hospital shall consist of at least 3 persons, including at least one independent medical practitioner and one lay person. The section also confers immunity from suit on the members of a transplant ethics committee and persons acting under the direction of the committee or the Director for anything which is done in good faith by them for the purposes of the exercise of the committee’s functions or in accordance with the Act.

The new section 15C empowers the Director to issue directions in the event that a transplant ethics committee is not discharging its functions properly.

The new section 15D provides for the Director to issue directions to the licensee or transplant ethics committee of a hospital for the purposes of the Part.

Clause 9 inserts new sections 18A and 18B.

The new section 18A empowers the Director to compound any offence which is prescribed by the Minister as a compoundable offence, by collecting from the person reasonably suspected of committing the offence a sum not exceeding \$2,000.

The new section 18B empowers the Minister to amend the new Second Schedule containing the specified organs (inserted by clause 11) by order, which is to be presented to Parliament after publication in the *Gazette*.

Clause 10 amends section 19 to set out the matters for or in respect of which the Minister may make regulations by virtue of the Bill.

Clause 11 inserts 2 new Schedules to the Act.

The First Schedule contains the organs which may be removed from deceased persons pursuant to section 5.

The Second Schedule specifies the organs which may be removed from the body of a living donor for the purpose of transplantation under the new Part IVA (inserted by clause 8).

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
