

# **Human Organ Transplant (Amendment) Bill**

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**Bill No. 3/2009.**

*Read the first time on 19th January 2009.*

A BILL

*intituled*

An Act to amend the Human Organ Transplant Act (Chapter 131A of the 2005 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 2009 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

#### 5 Amendment of section 5

2. Section 5(2) of the Human Organ Transplant Act (referred to in this Act as the principal Act) is amended —

- (a) by inserting, at the end of paragraph (c), the word “or”; and
- (b) by deleting paragraph (d).

#### 10 Amendment of section 14

3. Section 14 of the principal Act is amended —

- (a) by deleting the words “this section” in subsection (1) and substituting the words “subsections (3) and (4)”;
- (b) by inserting, immediately after subsection (2), the following subsection:

“(2A) Any person who —

- (a) gives or offers to give valuable consideration for the sale or supply of, or for an offer to sell or supply, any organ from the body of another person other than for the purpose of transplantation to his body;
- (b) receives valuable consideration for the sale or supply of, or for an offer to sell or supply, any organ from the body of another person;
- (c) offers to sell or supply any organ from the body of another person for valuable consideration;
- (d) initiates or negotiates any contract or arrangement for the sale or supply of, or for an offer to sell or supply, any organ from the body of another person for valuable consideration other than for the purpose of transplantation to his body; or
- (e) takes part in the management or control of a body corporate or body unincorporate whose activities consist of or include the initiation or negotiation of

any contract or arrangement referred to in paragraph (d),

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.”;

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(c) by deleting the words “Subsection (1)” in subsection (3) and substituting the words “Subsections (1) and (2A)”;

(d) by deleting the words “any organ or” in subsection (3)(a);

(e) by deleting the word “and” at the end of subsection (3)(a);

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(f) by deleting the full-stop at the end of paragraph (b) of subsection (3) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(c) any contract, arrangement or valuable consideration providing only for the defraying or reimbursing, in money or money’s worth, of such costs or expenses that may be reasonably incurred by a person in relation to —

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(i) the removal, transportation, preparation, preservation, quality control or storage of any organ;

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(ii) the costs or expenses (including the costs of travel, accommodation, domestic help or child care) or loss of earnings so far as are reasonably or directly attributable to that person supplying any organ from his body; and

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(iii) any short-term or long-term medical care or insurance protection of that person which is or may reasonably be necessary as a consequence of his supplying any organ from his body.”;

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(g) by inserting, immediately after the words “subsection (1)” in subsection (4), the words “or (2A)”;

(h) by inserting, immediately after the words “subsection (1)” in subsection (6), the words “or (2A)”;

(i) by inserting, immediately after subsection (6), the following subsection:

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“(7) For the purposes of this section, the donation by a living donor (Donor A) of any organ from his body in consideration of —

5 (a) a donation of an organ from another living donor for the purpose of the transplantation of the organ to the body of a living recipient of Donor A’s choice (Recipient A); or

10 (b) priority in the selection of Recipient A as a recipient of any organ, whether removed pursuant to section 5 or otherwise,

shall not, of itself, constitute valuable consideration if the donors have given their consent and the provisions of Part IVA (as applicable) are complied with.”; and

15 (j) by deleting the section heading and substituting the following section heading:

**“Buying or selling of organs or blood prohibited and void”.**

#### **Amendment of section 15A**

20 **4.** Section 15A(2) of the principal Act is amended by deleting the words “, whether prohibited under section 14 or otherwise” in paragraph (c)(i) and substituting the words “that is prohibited under section 14”.

#### **Amendment of section 21**

**5.** Section 21(2) of the principal Act is amended —

25 (a) by deleting the word “; and” at the end of paragraph (b) and substituting the words “, and any other committee for purposes relating to the welfare and protection of organ donors and their families;”; and

(b) by deleting the full-stop at the end of paragraph (c) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

30 “(d) the regulation of organ transplant arrangements, the regulation or administration of payment of costs, expenses and loss of earnings in relation to the removal of any organ for the purpose of

transplantation, and the operation of schemes granting medical benefits or privileges under section 14(3).”.

### Savings

5 **6.** No written objection registered, under section 9 of the principal Act in respect of any organ, immediately before the date of commencement of this Act —

- 10 (a) shall become invalid solely by reason of the fact that section 2 of this Act deletes paragraph (d) of section 5(2) of the principal Act, which prohibited the removal of any organ from the body of a deceased person who is above 60 years of age for the purpose mentioned in section 5(1) of the principal Act; and
- 15 (b) shall, notwithstanding the terms of such written objection, continue to apply to a case where the person who made the objection is above 60 years of age at the time of his death unless it is earlier withdrawn under section 11 of the principal Act.

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### EXPLANATORY STATEMENT

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

- (a) repeal the prohibition in section 5(2)(d) that organs may not be removed from the body of a deceased person who is above 60 years of age for the purpose of transplantation (clause 2);
- (b) allow the comprehensive reimbursement, in money or money’s worth, of costs, expenses and loss of earnings reasonably incurred by altruistic living organ donors (clauses 3 and 5);
- (c) allow the provision of the reasonable costs or expenses of short-term or long-term medical care or insurance protection which is or may reasonably be necessary as a result of the donation of the organ by an altruistic living donor (clause 3);
- (d) allow paired living donor organ transplant arrangements (clause 3); and
- (e) create a specific offence of commercial dealings in organs by intermediaries with enhanced penalties of a maximum \$100,000 fine or a maximum 10 years’ imprisonment or both (clause 3).

The Bill also amends section 15A(2) (by clause 4) as a consequence of the amendment of section 14 (by clause 3).

Clause 6 contains a savings provision to make it clear that clause 2 (which repeals the prohibition that organs may not be removed from the body of a deceased person above 60 years of age for the purpose of transplantation) does not affect the validity of written objections registered under the Act immediately before the date of commencement of the Human Organ Transplant (Amendment) Act 2009.

#### EXPENDITURE OF PUBLIC MONEY

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

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