

Letterhead of HUMAN ORGAN TRANSPLANT BOARD
人體器官移植委員會的信頭

Your Ref.:

Our Ref.: HOT/1/2 XI

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Urgent by Fax 2840 0467 (4 pages)

16 January 1999

Secretary for Health and Welfare
(Attn : Mr Eddie POON)
19-20/F Murray Building
Garden Road
Hong Kong

Dear Mr POON,

Human Organ Transplant (Amendment) Bill 1999

I refer to the Human Organ Transplant (Amendment) Bill 1999 (the Bill) published in the Gazette on 8 January 1999 and introduced into the Legislative Council (the LegCo) on 13 January 1999.

The Board appreciates the government's quick action and determination in amending the Human Organ Transplant Ordinance (the Ordinance) to cater for situations where the recipient is incapable of receiving interviews and understanding the explanation as required under the Ordinance. In response to the proposed amendments and the Amendment Bill, the Board held meetings on 29 December 1998 and 15 January 1999 to discuss the subjects respectively hoping that its views could be reflected to the Administration as soon as possible. The Board would like to thank you and Mr Clement Lau for attending the meetings to listen to the Board's views. It also has pleasure in setting out below the views or concerns expressed and hopes that the government and the LegCo would take them into consideration before enacting the Amendment Ordinance.

The marital requirement

Section 5(1)(ii) of the Ordinance permits a transplant between living persons without the approval of the Board where the person into whom the organ is to be transplanted is, at the time of the transplant, the spouse of the person from whom the organ is removed and the marriage has subsisted for not less than three years. At present, there is no restriction upon how it is to be ascertained either that the two persons are married or that the marriage has subsisted for not less than three years.

It has been proposed to add section 5(2A) to specify that the marital requirement must be established by a means prescribed by the Board by regulation. In this respect, the Board has grave concerns that the amendment may not assist the medical practitioner to establish the fact of the marriage and its duration, it will merely restrict him as to what evidence he can consider. Moreover, it is not clear whether

"the fact of the relationship" which is to be established by prescribed means is limited to establishing that there is a valid marriage or whether this extends to determining that the marriage subsists, and has done so for not less than three years. If it is limited to merely establishing the fact of a marriage, the possibly major problem, so far as the registered medical practitioner is concerned, of how to determine that the marriage still subsists, still exists. Even with the amendment, even if the medical practitioner believes he has established the relationship, its duration and its subsistence by the prescribed means, if in fact the relationship does not exist there remains the possibility that an offence contrary to section 5(1) will be committed.

From the experience of establishment of genetic relationship by medical practitioners based on means prescribed in the Regulation by the Board, there have been concerns that the means prescribed have restricted the ways the medical practitioners can establish the genetic relationship. The Board is in fact considering to widen the means of establishing genetic relationship by making reference to some established procedures of interviewing patients by professionals to provide greater flexibility in this respect. There are also comments from the medical profession that it would be very difficult to prove the "subsistence" of marriage. It would therefore leave more leeway as to how the subsistence of marriage is to be satisfied by not requiring the proof of the relationship to be established by prescribed means.

If the new subsection 5(2A) is to be added, then the Board wishes to be advised as to what the draftsman has in mind as to what information will be supplied in accordance with such regulations. It is noted that the penalty under section 36 of the Crimes Ordinance, Cap 200, of making a false statutory declaration is more severe than that proposed in section 5(8) and that there is no provision similar to the proposed section 5(8) in relation to the regulations made for the determination of a genetic relationship.

The recipient incapable of understanding

The proposed sections 5(6A) and (6B) specify the circumstances in which an organ transplant may still be made notwithstanding the fact that the recipient is, for certain specified reasons, incapable of understanding the explanation required to be given to him under section 5(4)(c). The Board is in support of an amendment that would allow transplants for comatose patients be carried out.

Nevertheless, the Board would like to point that the proposed amendments have not addressed an issue that the Board has previously raised; which it feels is a matter of great importance which needs to be addressed and not go by default. This is the issue of the recipient's wish to have the organ from the intended donor transplanted into him. Whilst the recipient may not have been able to receive the necessary explanations and interviews he may have indicated as to whether he would be agreeable to having a transplant; he may have strong objections - either to transplants in general or to a particular transplant from a particular donor. How is the Board, in the case of an application for a non-related transplant, or the doctor, in the case of a related transplant, to approach this issue?

Under the present proposals, the Board is concerned that the proposed amendments will change the spirit of the Ordinance of requiring the consent of the recipient, but only insofar as recipients who are not capable of understanding the procedure. It is concerned that it will have to operate under two systems, one for ordinary cases, where the original spirit of the Ordinance will apply, and one for recipients who are not capable of understanding the procedure, where the original

spirit of the Ordinance will no longer apply. This is because it would appear that under the proposed amendments the recipient's views could not and need not be taken into account.

In addition to changing the original spirit of the Ordinance, the amendments may also affect the common law principle as to when a doctor may lawfully operate on an adult patient. It is understood by the Board that the next of kin of a patient, who is physically and mentally capable of exercising a choice but who is not in a position to make such a decision because he is unconscious, has no legal right to consent to or refuse to consent to medical treatment on behalf of a patient. It is also understood by the Board that at common law a doctor cannot lawfully operate on an adult of sound mind who has decided to refuse to accept medical treatment. On the face of it the proposed amendments may be changing the common law - the Board in the case of an application for a non-related transplant will not need to take the recipient's views into account when deciding whether to grant approval; the doctor in a related transplant will similarly not be bound.

Whilst the Board has received legal advice on these matters and has a certain understanding of the principles involved, it is no expert in this area. It is concerned that it should be apparent that these matters have been considered and that the legislators have been made aware of the issues. It is important that the common law is not changed by default. It is important, in order to prevent future legal argument, that it is made clear whether this is the intent.

The burden of proof

During the discussion, the Board raised its concern with you as to the burden of proof and asked you to clarify whether it was the intention of the Ordinance that the Board would be required to perform an investigative role in carrying out its duties under the Ordinance. You have advised that when an application is submitted to the Board for consideration, the burden of proof does not rest with the Board which should, on the basis of information or evidence submitted to it, determine whether the criteria required by the Ordinance have been met. The Board can seek more information or evidence but is not required to verify or investigate as to whether the information submitted is correct. The Board notes and accepts this advice.

Other amendments

Section 5(7) is being amended to clearly restrict the penalty under that subsection to the offence under section 5(1) - of removing or transplanting an organ between living non-related persons without the Board's approval. It remains no offence for a person to breach section 5(6). It is not an offence for him to remove an organ intended for a recipient who is incapable of giving consent.

The Board also notes that whilst the practitioner who removes the organ commits no offence for breach of section 5(6), or for not ensuring that section 5(6A) is complied with, the registered medical practitioner who transplants the organ commits an offence under section 5(9) if he does so without having the copy certificates submitted to him or if he fails to submit copies of them and of the required medical report to the Board within 30 days of the transplant. There therefore appears to be a disparity that may need to be addressed.

While the addition of section 5(8) will make it an offence for a person to knowingly or recklessly supply information or make a certification which is false or

misleading in a material respect "in purported compliance" with either regulations made for the purposes of section 5(2A) or section 5(6A), there is no similar offence for a person to supply information which is false or misleading in a material respect in compliance with regulations establishing genetic relationship.

Your attention is also drawn to the need of amending Form 1 of the Human Organ Transplant Regulation or creating a new form to enable the informant to declare that section 5(6A) was complied with when section 5(4)(c) was not. To tie in with the enactment of the Amendment Bill and the amendments to the Forms as prescribed in the Regulation, drafting of such amendment to the Forms has to be done in parallel. If the Forms are not ready at the time the proposed section 5(6A) comes into operation, the persons who are required to supply information under section 6 of the Ordinance will be unable to comply with the regulations and the proper records will not then be kept. Please confirm that drafting instructions have been given to the Law Draftsman in this regard. If the Board is required to do anything further, please advise.

We hope that the above views will assist the discussion of the government and the LegCo on the Bill.

With best regards,

Yours sincerely,

(Ms Fausta Ng)
Secretary, Human Organ Transplant Board

CHAPTER 465

HUMAN ORGAN TRANSPLANT

An Ordinance to prohibit commercial dealings in human organs intended for transplanting, to restrict the transplanting of human organs between persons who are not genetically related, to regulate the importing of human organs intended for transplanting and for supplementary purposes connected with those matters.

[section 3 : 15 February 1996] L.N. 77 of 1996

1. Short title and commencement

(1) This Ordinance may be cited as the Human Organ Transplant Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Governor by notice in the Gazette.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

“board” (委員會) means the Human Organ Transplant Board established by section 3;

“organ” (器官) means any part of the human body consisting of a structured arrangement of tissues which, if wholly removed, cannot be regenerated by the body, and includes part of an organ;

“payment” (付款) means payment in money or money's worth but does not include any payment for defraying or reimbursing—

(a) the cost of removing, transporting or preserving the organ to be supplied; or

(b) any expenses or loss of earnings incurred by a person and attributable to his supplying an organ from his body.

第 465 章

人體器官移植條例

本條例旨在禁止將擬作移植用途的人體器官作商業交易，限制無血親關係人士間的人體器官移植，規管將擬作移植用途的人體器官進口，並對與此相關的補充事宜作出規定。

[第 3 條 : 1996 年 2 月 15 日] 1996 年第 77 號法律公告

1. 簡稱及生效日期

(1) 本條例可引稱為《人體器官移植條例》。

(2) 本條例自總督以憲報公告指定的日期起實施。

2. 釋義

在本條例中，除文意另有所指外——

“付款”(payment)指以金錢或有價事物付款，但不包括付款以支付或償還——

(a) 切除、運送或保存所獲提供器官的費用；或

(b) 任何人因提供其身體器官而招致的任何開支或收入方面的損失；

“委員會”(board)指由第 3 條設立的人體器官移植委員會；

“器官”(organ)指人體內任何由有結構組織構成的部分(而該等組織如被完全切除，是不能在體內再生的)，亦包括任何器官的一部分。

《1999 年人體器官移植
(修訂) 條例草案》

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5. 無血親關係人士間人體器官移植的限制

- (1) 除第(3)款另有規定外，任何人如——
- (a) 自任何在生的人身上切除擬移植於另一人體內的器官；或
 - (b) 將切除自任何在生的人身上的器官移植於另一人體內，
- 即屬犯罪，除非獲器官移植或將會獲器官移植(視屬何情況而定)的人——
- (i) 與被切除器官的人有血親關係；或
 - (ii) 於器官移植時，為被切除器官的人的配偶，而有關婚姻已持續不少於3年。
- (2) 為本條的目的，任何人與——
- (a) 其親生父母及子女；
 - (b) 其同胞兄弟姊妹，及其同父異母或同母異父兄弟姊妹；
 - (c) 其親生父母的同胞兄弟姊妹，及其親生父母的同父異母或同母異父兄弟姊妹；及
 - (d) 其同胞兄弟姊妹的親生子女、其同父異母或同母異父兄弟姊妹的親生子女、其親生父母同胞兄弟姊妹的親生子女，及其親生父母的同父異母或同母異父兄弟姊妹的親生子女，
- 均有血親關係，但在任何個案中，除非上述任何一項關係已按委員會藉規例訂明的方式證明屬實，否則有關人士均不得視為有該項關係。
- (3) 如任何人作出第(1)(a)或(b)款所提述的作為前，委員會已發出書面批准，則該人並無犯第(1)款所訂的罪行。
- (4) 委員會如信納以下事項，可給予第(3)款所指的批准——
- (a) 安排將有關事宜提交委員會的人，對器官捐贈人負有臨床診治責任；
 - (b) 器官捐贈人——
 - (i) 年齡已達18歲；或
 - (ii) 年齡已達16歲，並且已婚；
 - (c) 一名註冊醫生(但並非將會自器官捐贈人身上切除器官或將器官捐贈人的器官移植於另一人體內的醫生)已向器官捐贈人及器官受贈人解釋以下事宜，而各人亦已明白該等事宜——
 - (i) 有關的程序；
 - (ii) 所涉及的危險；及
 - (iii) 其本人可隨時撤回同意的權利；
 - (d) 器官捐贈人並非於威迫或利誘的情況下同意切除該器官，而其後亦無撤回其同意；及
 - (e) 沒有或不擬作出本條例所禁止的付款。
- (5) 委員會給予批准前，須確保器官捐贈人及器官受贈人均已獲委員會認為具備適當資格進行接見的人分別接見，而該人已向委員會就器官捐贈人及器官受贈人對第(4)(c)及(d)款所載事宜的理解作出報告。

△ 在生的人之間的人體器官移植的限制

△ (2A) 在任何個案中，除非已按委員會藉規例訂明的方式，證明兩名人士為婚姻關係已持續不少於3年的配偶，否則不得將該兩名人士視為有上述關係的配偶。

HUMAN ORGAN TRANSPLANT (AMENDMENT) BILL 1999

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5. ~~Restriction on transplants between
persons not genetically related~~

(1) Subject to subsection (3), a person is guilty of an offence if he—
(a) removes from a living person an organ intended to be transplanted into another person; or
(b) transplants an organ removed from a living person into another person,
unless the person into whom the organ is to be or, as the case may be, is transplanted—

- (i) is genetically related to the person from whom the organ is removed; or
- (ii) is, at the time of the transplant, the spouse of the person from whom the organ is removed and the marriage has subsisted for not less than 3 years.

(2) For the purposes of this section a person is genetically related to—
(a) his natural parents and children;

- (b) his brothers and sisters of the whole or half blood;
- (c) the brothers and sisters of the whole or half blood of either of his natural parents; and
- (d) the natural children of his brothers and sisters of the whole or half blood or of the brothers and sisters of the whole or half blood of either of his natural parents.

but persons shall not in any particular case be treated as related in any of those ways unless the fact of the relationship has been established by such means as may be prescribed by the board by regulation.

(3) A person is not guilty of an offence under subsection (1) if, before an act referred to in subsection (1)(a) or (b) is performed, the board has given its approval in writing.

(4) The board may give its approval under subsection (3) if it is satisfied that—

- (a) the person who has caused the matter to be referred to the board has clinical responsibility for the donor;
- (b) the donor has reached the age of—
 - (i) 18 years; or
 - (ii) 16 years and is married;
- (c) a registered medical practitioner, who is not the medical practitioner who will remove the organ from the donor or transplant the donor's organ into another person, has explained to the donor and the recipient, and each has understood—
 - (i) the procedure;
 - (ii) the risk involved; and
 - (iii) his entitlement to withdraw consent at any time;

△ Restriction on transplants
between living persons

△ (2A) Two persons shall not in any particular case be treated as spouses whose marriage has subsisted for not less than 3 years unless the fact of the relationship has been established by such means as may be prescribed by the board by regulation.

(6) 在無須按第(3)款取得委員會批准的情況下，任何人自在生的人身上切除擬移植於另一人體內的器官前，仍須確使自己能信納第(4)(b)至(e)款所提述的規定已獲遵從。

(7) 任何人犯本條所訂罪行，如屬首次定罪，可處第 5 級罰款及監禁 3 個月，其後各次定罪，均可處第 6 級罰款及監禁 1 年。

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(6A) 儘管有第(4)(c)款及在與該款有關的範圍內的第(5)或(6)(視屬何情況而定)款的規定，就任何器官受贈人而言並僅就該人而言——

- (a) 委員會如信納有關條件均符合則可根據第(3)款發出批准；或
- (b) (如屬無須按第(3)款取得委員會批准的情況)將會自在生的人身上切除擬移植於另一人體內的器官的人，如信納有關條件均符合，則可切除該器官，

而(a)及(b)段中所指的有關條件為——

- (i) 一名註冊醫生(但並非將會自器官捐贈人身上切除器官或將器官捐贈人的器官移植於另一人體內的醫生)已以書面證明器官受贈人基於以下理由而無能力明白第(4)(c)款所述的解釋——
 - (A) 他患有任何疾病；
 - (B) 他是一名未成年人；
 - (C) 他是在與《1997年精神健康(修訂)條例》(1997年第81號)一併理解的《精神健康條例》(第136章)所指的病人或弱智人士；或
 - (D) 他正處於神智不清的狀態；
- (ii) 一名註冊醫生(但並非將會自器官捐贈人身上切除器官或將器官捐贈人的器官移植於另一人體內的醫生)已以書面證明等待至器官受贈人能夠明白該等解釋並不會符合該器官受贈人的最佳利益；及
- (iii) 將會將器官移植於器官受贈人體內的註冊醫生已以書面形式備存一份醫療報告，述明第(4)(c)款不能就該器官受贈人而獲遵從的理由。

(6B) 如第(6A)款適用，則——

- (a) 在有關第(4)(c)及(5)款的情況下，並在不損害第(4)及(5)款於第(6A)款不適用的範圍內的實施的原則下，除非已有第(6A)(i)及(ii)款規定的有關證明書的副本及第(6A)(iii)款規定的有關報告的副本呈交予委員會，否則委員會不得根據第(3)款發出批准；
- (b) 在有關第(6)款的情況下——
 - (i) 除非就器官受贈人而言，已有第(6A)(i)及(ii)款規定的證明書的副本呈交予將會將器官移植於該器官受贈人體內的註冊醫生，否則該名醫生不得進行該項移植；
 - (ii) 已將器官移植於器官受贈人體內的註冊醫生，須於該項移植後的30天內，或於委員會應申請而容許的較長限期內，就該器官受贈人而向委員會呈交第(6A)(i)及(ii)款規定的證明書的副本及第(6A)(iii)款規定的報告的副本。

↑ 第(1)款

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- * (8) 任何人在其意是遵從——
(a) 為施行第(2A)款而訂立的規例；或
(b) 第(6A)款，

的情況下知情地或罔顧後果地發出在要項上屬虛假或具誤導性的證明書，或知情地或罔顧後果地提供在要項上屬虛假或具誤導性的資料，即屬犯罪，一經定罪，可處第5級罰款及監禁3個月。

(9) 任何註冊醫生在沒有合理辯解的情況下沒有遵從第(6B)(b)(i)或(ii)款，即屬犯罪，一經定罪，可處第5級罰款。

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- (d) the donor has given his consent to removal of the organ without coercion or the offer of inducement and has not subsequently withdrawn his consent; and
- (e) no payment prohibited by this Ordinance has been, or is intended to be, made.

(5) Before giving its approval, the board shall ensure that the donor and the recipient have each been interviewed separately by a person whom the board considers to be suitably qualified to conduct such an interview and the person has reported to the board on the donor's and recipient's understanding of the matters contained in subsection (4)(c) and (d).

(6) Before removing from a living person an organ intended to be transplanted into another person, the person removing it shall, where the approval of the board is not required under subsection (3), satisfy himself that the requirements referred to in subsection (4)(b) to (e) have been complied with.

(6A) Notwithstanding subsections (4)(c) and (5) (insofar as it relates to subsection (4)(c)) or, as the case may be, subsection (6) (insofar as it relates to subsection (4)(c)) in the case, but only in the case, of the recipient—

- (a) the board may give its approval under subsection (3); or
- (b) the person who will remove from a living person an organ intended to be transplanted into another person where the approval of the board is not required under subsection (3) may remove the organ,

if the board or person, as the case may require, is satisfied that—

- (i) a registered medical practitioner, who is not the medical practitioner who will remove the organ from the donor or transplant the donor's organ into another person, has certified in writing that the recipient is incapable of understanding any explanation as mentioned in subsection (4)(c) by reason of—

(A) his suffering any illness;

(B) his being a minor;

(C) his being a patient or a mentally handicapped person, within the meaning of the Mental Health Ordinance (Cap. 136) as read with the Mental Health (Amendment) Ordinance 1997 (81 of 1997); or

(D) his suffering an impaired state of consciousness;

- (ii) a registered medical practitioner, who is not the medical practitioner who will remove the organ from the donor or transplant the donor's organ into another person, has certified in writing that it would not be in the best interests of the recipient to wait until he is capable of understanding such an explanation; and

- (iii) the registered medical practitioner who is to transplant the organ into the recipient has kept a medical report in writing stating the reason why subsection (4)(c) cannot be complied with in respect of the recipient.

(6B) Where subsection (6A) is applicable—

- (a) in the case of subsections (4)(c) and (5), the board shall not give its approval under subsection (3) (and without prejudice to the operation of subsections (4) and (5) to the

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extent that subsection (6A) is not applicable) unless there has been submitted to it copies of the certificates concerned required under subsection (6A)(i) and (ii) and a copy of the report concerned required under subsection (6A)(iii);

- (b) in the case of subsection (6)—
 - (i) the registered medical practitioner who is to transplant the organ into the recipient concerned shall not do so until there has been submitted to him copies of the certificates required under subsection (6A)(i) and (ii) in respect of the recipient;
 - (ii) the registered medical practitioner who has transplanted the organ into the recipient shall, not later than 30 days after the transplant or within such longer period as the board, on application, may allow, submit to the board copies of the certificates required under subsection (6A)(i) and (ii) and a copy of the report required under subsection (6A)(iii) in respect of the recipient.

(7) A person guilty of an offence under this section shall be liable upon a first conviction to a fine at level 5 and to imprisonment for 3 months and upon a subsequent conviction to a fine at level 6 and to imprisonment for 1 year.

↑ subsection (1)



- (8) Any person who in purported compliance with—
 - (a) regulations made for the purposes of subsection (2A); or
 - (b) subsection (6A),
 knowingly or recklessly supplies information, or makes a certification, which is false or misleading in a material respect is guilty of an offence and is liable upon conviction to a fine at level 5 and to imprisonment for 3 months.
- (9) A registered medical practitioner who, without reasonable excuse, fails to comply with subsection (6B)(b)(i)
 - (ii) shall be guilty of an offence and is liable upon conviction to a fine at level 5.



6. Information about transplant operations

(1) The board may by regulation require such persons as may be prescribed to supply prescribed information to it with respect to transplants that have been or are proposed to be carried out using organs removed from dead or living persons.

(2) The board shall keep a record of information supplied to it in pursuance of the regulations made under this section.

(3) Any person who—

(a) without reasonable excuse fails to comply with regulations made under this section; or

(b) in purported compliance with regulations made under this section, knowingly or recklessly supplies information which is false or misleading in a material respect,

is guilty of an offence and is liable upon conviction to a fine at level 5 and to imprisonment for 3 months.

7. Information required for imported organs

(1) Where a human organ is imported for the purpose of transplanting it into a person in Hong Kong, it must be accompanied by a certificate which is signed by a person in the country of origin who is acceptable to the board and which contains the following—

(a) a statement that, in obtaining the organ, all applicable laws of the country of origin were complied with;

(b) a statement that the source of the organ was not infected with any disease that could be transmitted to the recipient of the organ through transplanting;

(c) a statement that the organ was removed in a hospital in which the government of the country of origin has authorized organs to be removed for transplanting;

(d) a statement that no person in the country of origin made or received a payment for supplying the organ;

(e) such other information as the board may, by regulation, require to be supplied, and the board may require different information to be supplied for different organs.

(2) The person who is to transplant the organ into a person in Hong Kong shall, before transplanting it, supply the certificate to the board.

(3) If the certificate does not accompany the organ, no person shall transplant it into a person in Hong Kong until such a certificate has been obtained and supplied to the board.

(4) A person who contravenes subsection (2) or (3) is guilty of an offence and is liable upon conviction to a fine at level 5 and to imprisonment for 3 months.

6. 關於移植手術的資料

(1) 委員會可藉規例規定訂明的人，就使用自去世或在生的人身上切除的器官所曾進行或擬進行的移植，須向委員會提供訂明的資料。

(2) 對依據本條下所訂規例向委員會提供的資料，委員會須予備存紀錄。

(3) 任何人有以下作為，即屬犯罪，一經定罪，可處第5級罰款及監禁3個月——

(a) 在沒有合理辯解的情況下，不遵從根據本條所訂規例；或

(b) 其意是遵從根據本條所訂規例，但知情地或罔顧後果地提供在要項上虛假或有誤導性的資料。

7. 就進口器官所規定提供的資料

(1) 凡將任何人體器官進口，以在香港將該器官移植於人體內，則須隨該器官附上一份由有關的器官來源國一名委員會認為可予接受的人簽署，並載列以下事項的證明書——

(a) 一項陳述，述明在獲取該器官方面，該器官來源國的一切適用法律均已獲遵從；

(b) 一項陳述，述明該器官得自某人體內，而該人並無感染任何可透過移植該器官而傳染器官受贈人的疾病；

(c) 一項陳述，述明切除該器官所在的醫院，是一所該器官來源國的政府授權可在內進行器官切除以作移植用途的醫院；

(d) 一項陳述，述明在該器官來源國，並無任何人曾為該器官的提供而作出或接受付款；

(e) 委員會藉規例規定提供的其他資料，而委員會可規定須就不同的器官而提供不同的資料。

(2) 如任何人將會在香港將上述器官移植於人體內，則該人將該器官移植前，須向委員會提供上述的證明書。

(3) 如上述的證明書並無隨上述器官附上，則在該證明書取得並向委員會提交前，任何人均不得在香港將該器官移植於人體內。

(4) 任何人違反第(2)或(3)款，即屬犯罪，一經定罪，可處第5級罰款及監禁3個月。

**8. Limitation of time for proceedings
in respect of offences**

In respect of an offence under this Ordinance, a complaint may be made or an information laid within 3 years from the time when the matter of such complaint or information respectively arose.

8. 就罪行提出法律程序的時限

就本條例所訂罪行而作出的申訴或告發，只可在該申訴或告發所指事情發生起計3年內作出。