

**Proposed Amendments to the
Human Organ Transplant Ordinance (Cap. 465)**

INTRODUCTION

This paper seeks Members' advice on some proposed amendments to the Human Organ Transplant Ordinance (the Ordinance), which we intend to include in a legislative amendment exercise scheduled for the 1999-2000 Legislative Year.

BACKGROUND

2. During the deliberations of the Human Organ Transplant (Amendment) Ordinance 1999 (the Amendment Ordinance) earlier this year, concerned parties commented extensively on the content of the Ordinance in their submissions to the Administration, the Legislative Council and the Human Organ Transplant Board (the Board). We have undertaken to carefully consider these views and comments and where appropriate, to take them on board in a subsequent amendment exercise. Our proposed amendments to the Ordinance, based on a thorough review of the Ordinance and the suggestions made available to us, are now set out in the following paragraphs for Members' comments.

(a) Coverage of the Ordinance:

3. Under the existing Ordinance, transplant operations are required to be preceded by some stipulated procedures. There are practical difficulties in complying with these required procedures in cases of operations using organs, such as bone fragments, already removed from another person for therapeutic purposes on a previous occasion, which are unconnected with the potential transplant operation. We propose adding a schedule to the Ordinance setting out circumstances under which exemptions from certain stipulated procedures could be allowed.

(b) Revamp the membership of the Board:

4. At present, the Board consists of 9 members (including the chairman) from different professions. When a member is unable to exercise his/her functions, such as while overseas, a temporary member has to be appointed. Such an arrangement may result in insufficient votes for making decisions, particularly during long holidays when many members of the Board and candidates for temporary members are out of town.

5. We propose designating nine substantive members (including the chairman) as core members of the Board for carrying out its various responsibilities. To cater for temporary absence, we propose to set up panels of alternative members to serve as temporary members where needed. We may also appoint a substantive member as the deputy chairman who will automatically replace the chairman when he/she cannot exercise his/her functions.

6. We also propose to stipulate clearly in the Ordinance that there should be a legal advisor and secretary appointed to assist the Board in the pursuit of its duties.

(c) Indemnity for individual members:

7. The Human Organ Transplant Board proposes that no member of the Board and its secretariat should be personally liable for any act done or default made by the Board when they are acting in good faith in the exercise of the powers conferred on the Board by the Ordinance. We agree to this proposal and will explore the possibility of stipulating it clearly in the Ordinance in consultation with the Department of Justice.

(d) Allow two different medical practitioners to conduct interviews:

8. The Hospital Authority has pointed out that there might be practical difficulties in finding the same medical practitioner to interview the donor and the recipient, as required under the Ordinance, especially if there is certain time gap between the removal and transplant of the organ. To resolve the problem, we support the suggestion made by the Hospital Authority that the Ordinance should be amended to allow either the same or two different medical practitioners to conduct the interviews.

(e) Revamp the structure of the Ordinance:

9. In the light of comments made by members of the Bills Committee in the course of scrutinizing the Amendment Ordinance earlier this year, the Administration has undertaken to review the drafting and structure of the Ordinance with a view to streamlining it to make it more user-friendly to the Board and medical practitioners alike. We will liaise with the Law Drafting Division of the Department of Justice on this issue.

CONSULTATION WITH PARTIES CONCERNED

10. The Administration has consulted the Board on the above proposed amendments at its meeting held on 31 May 1999. The Board was generally in support of the suggested changes to be included in the forthcoming amendment exercise to the Ordinance.

ADVICE SOUGHT

11. Members are invited to advise on the proposed amendments set out from paragraph 3 to 9.

Health and Welfare Bureau

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