

LEGISLATIVE COUNCIL BRIEF

Human Organ Transplant Ordinance (Cap.465)

HUMAN ORGAN TRANSPLANT (AMENDMENT) REGULATION 1999

INTRODUCTION

The Human Organ Transplant (Amendment) Ordinance 1999 (the “Amendment Ordinance”) was enacted by the Legislative Council on 10 February 1999 and came into operation on 19 February 1999, providing certain amendments to the Human Organ Transplant Ordinance (the “Ordinance”). The Human Organ Transplant (Amendment) Regulation 1999 (the “Amendment Regulation”) (at Annex) was made by the Human Organ Transplant Board on 3 March 1999, under section 6(1) of the Ordinance, to effect amendments to the Human Organ Transplant Regulation (the “Regulation”) to tie in with the changes made to the Ordinance.

BACKGROUND AND ARGUMENT

2. The Amendment Ordinance specifies the circumstances in which an organ transplant involving a live donor may still be carried out in cases where the recipient is, for certain specified reasons, incapable of understanding the explanation required to be given to him under section 5(4)(c) of the Ordinance.

3. Information on organ removal for donation is required to be submitted to the Human Organ Transplant Board by completing Form 1 in the Schedule of the Regulation. The Form requires the person removing the organ from the donor to declare that he is satisfied that the

requirements in section 5(4)(b) to (e) of the Ordinance have been complied with.

4. Since the Amendment Ordinance has now added a new subsection 5(6A) to the Ordinance to cater for situations where the part relating to the recipient in section 5(4)(c) cannot be complied with, it is necessary to amend the wording in the existing Regulation to reflect this amendment made by the Amendment Ordinance.

5. In addition to the above, the Human Organ Transplant Board took the opportunity to delete the requirement for certain information to be submitted in Form 1 and Form 2 in the Schedule to the Regulation. The amendments are set out in paragraph 6.

THE AMENDMENT REGULATION

6. The Amendment Regulation, made by the Human Organ Transplant Board on 3 March 1999, amends the Forms in the Schedule to the Human Organ Transplant Regulation to -

- (a) provide that the information in respect of marital status is required in Form 1 only in respect of a living donor;
- (b) bring Form 1 into conformity with section 5 of the Ordinance as recently amended by the Amendment Ordinance;
- (c) specify how the “cause of death” provision in Form 1 should be completed in the case of a dead donor whose death is the subject of a pending coroner’s inquest; and
- (d) delete in Form 2 the requirement to provide the marital status of the recipient of an organ donation.

FINANCIAL AND STAFFING IMPLICATIONS

7. There are no financial or staffing implications.

BINDING EFFECT

8. The amendments will not affect the current binding effect of the principal Regulation.

PUBLIC CONSULTATION

9. Public consultation is not considered necessary as the amendments are simple technical amendments made to the Regulation to tie in with the changes made to the Ordinance.

PUBLICITY

10. The Amendment Regulation will be gazetted on 12 March 1999. The Secretary of the Human Organ Transplant Board will be available to handle enquires and inform the relevant medical professionals and organisations of the amendments.

ENQUIRY

11. For any enquiries on this brief, please contact the following officer:

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Health and Welfare Bureau
11 March 1999

HUMAN ORGAN TRANSPLANT (AMENDMENT) REGULATION 1999

(Made by the Human Organ Transplant Board under section 6(1) of the Human Organ Transplant Ordinance (Cap. 465))

1. Schedule amended

The Schedule to the Human Organ Transplant Regulation (Cap. 465 sub. leg.) is amended-

- (a) in Part I of Form 1-
 - (i) by adding “(if donor is living)” after “Marital status”;
 - (ii) by repealing “5(4)(b)-(e)” where it twice appears and substituting “5(4)(b)- (e)/section 5(4)(b), (c) (insofar as it relates to the donor), (d) and (e) and (6A)* ”;
 - (iii) by adding “(please state “pending coroner’s inquest” for such cases and supply the cause of death to the Human Organ Transplant Board as soon as it is available)” after “Cause of death”;

- (b) in Part I of Form 2, by repealing “Marital status: Single/Married* ”.

Chairman,
Human Organ Transplant Board

3 March 1999

Explanatory Note

The purpose of this Regulation is to amend forms in the Schedule to the Human Organ Transplant Regulation (Cap. 465 sub. leg.) to-

- (a) provide that the information in respect of marital status is only required in Form 1 in respect of a living donor (section 1(a)(i));
- (b) bring Form 1 into conformity with section 5 of the Human Organ Transplant Ordinance (Cap. 465) as recently amended by the Human Organ Transplant (Amendment) Ordinance 1999 (7 of 1999) (section 1(a)(ii));
- (c) specify how the “cause of death” provision in Form 1 should be completed in the case of a dead donor whose death is the subject of a pending coroner’s inquest (section 1(a)(iii)); and

- (d) delete the provision relating to marital status in Form 2 (section 1(b)).