

L. N. 168 of 1999

Human Organ Transplant (Amendment)

(No. 2) Regulation 1999

(Made by the Human Organ Transplant Board under section 5(2) and (2A) of the Human Organ Transplant Ordinance (Cap. 465))

1. Establishment of genetic relationship  
for transplant from live donor

Section 2 of the Human Organ Transplant Regulation (Cap. 465 sub. leg.) is amended---

(a) by repealing "a medical practitioner who" and substituting "where a medical practitioner";

(b) by repealing "may establish the fact of genetic relationship" and substituting "the fact of the genetic relationship shall be established".

2. Section added

The following is added---

"2A. Establishment of marriage that has subsisted for not less than 3 years  
For the purposes of section 5 of the Ordinance, where a medical practitioner is--

(a) to remove an organ from a living person with the intention of it being transplanted into another person who is, at the time of the transplant, the spouse of the person from whom the organ is to be removed and the marriage has subsisted for not less than 3 years; or

(b) to transplant the organ referred to in paragraph (a) into such spouse of such marriage,

the fact of such relationship shall be established by means of---

(i) any document or documents---

(A) issued under the Marriage Ordinance (Cap. 181) or the Marriage Reform Ordinance (Cap. 178) which shows or show that the 2 persons are the parties to---

(I) a marriage celebrated or contracted in accordance with the provisions of the Marriage Ordinance (Cap. 181);

(II) a modern marriage validated by the Marriage Reform Ordinance (Cap. 178);  
or

(III) a customary marriage declared to be valid by the Marriage Reform Ordinance (Cap. 178); or

(B) equivalent to any document or documents issued under the Marriage Ordinance (Cap. 181) or the Marriage Reform Ordinance (Cap. 178) which shows or show that the 2 persons are the parties to a marriage celebrated or contracted outside Hong Kong in accordance with the law in force at the time and in the place where the marriage was performed;

and

(ii) a statutory declaration by either of the 2 persons to the effect that the marriage has subsisted for not less than 3 years."

Mrs. Sophie LEUNG LAU Yau-fun

Chairman,

Human Organ Transplant Board

17 June 1999

Explanatory Note

This Regulation amends the Human Organ Transplant Regulation (Cap. 465 sub. leg.) to---

- (a) make minor drafting changes to section 2 ("Establishment of genetic relationship for transplant from live donor") to make it more closely parallel the wording of section 5(2) of the Human Organ Transplant Ordinance (Cap. 465) (section 1); and
- (b) add a new section 2A specifying the means by which it shall be established, for the purposes of section 5 of the Human Organ Transplant Ordinance, that the donor of an organ for transplant and the recipient of the organ are the parties to a marriage which has subsisted for not less than 3 years (section 2).